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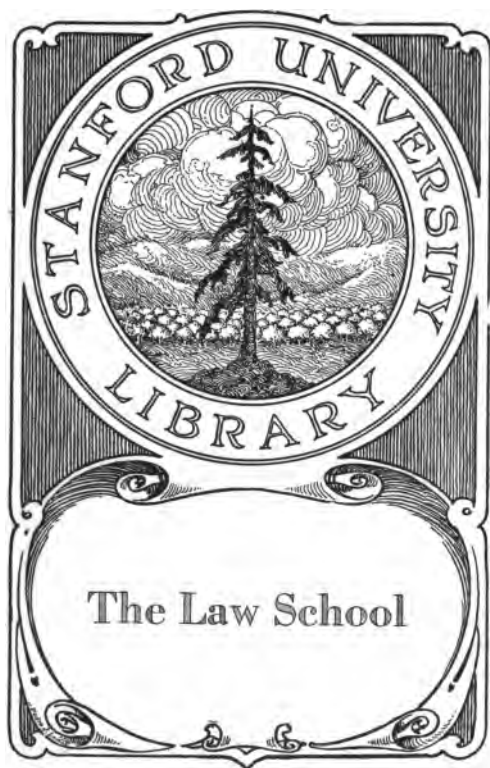
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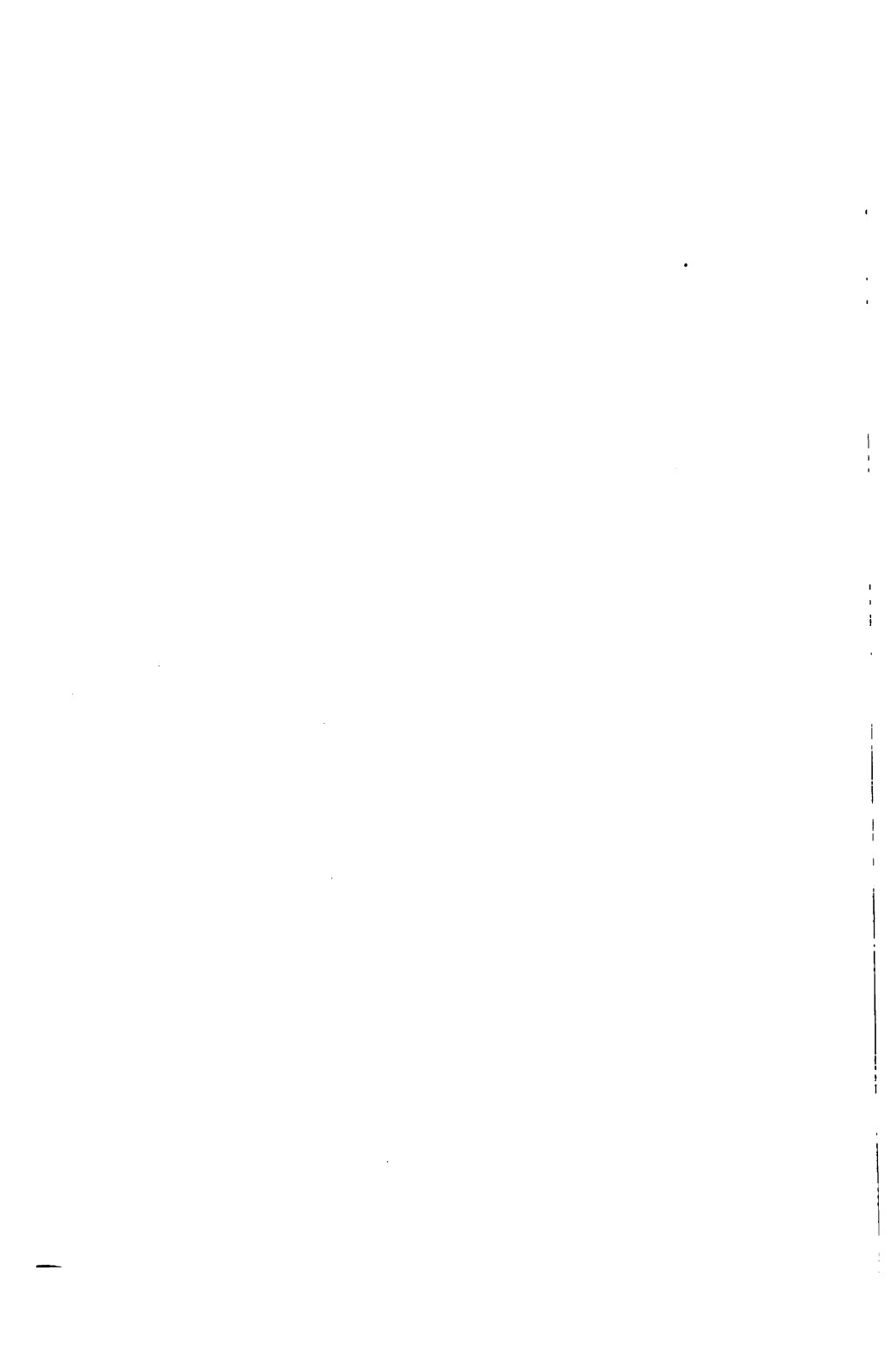
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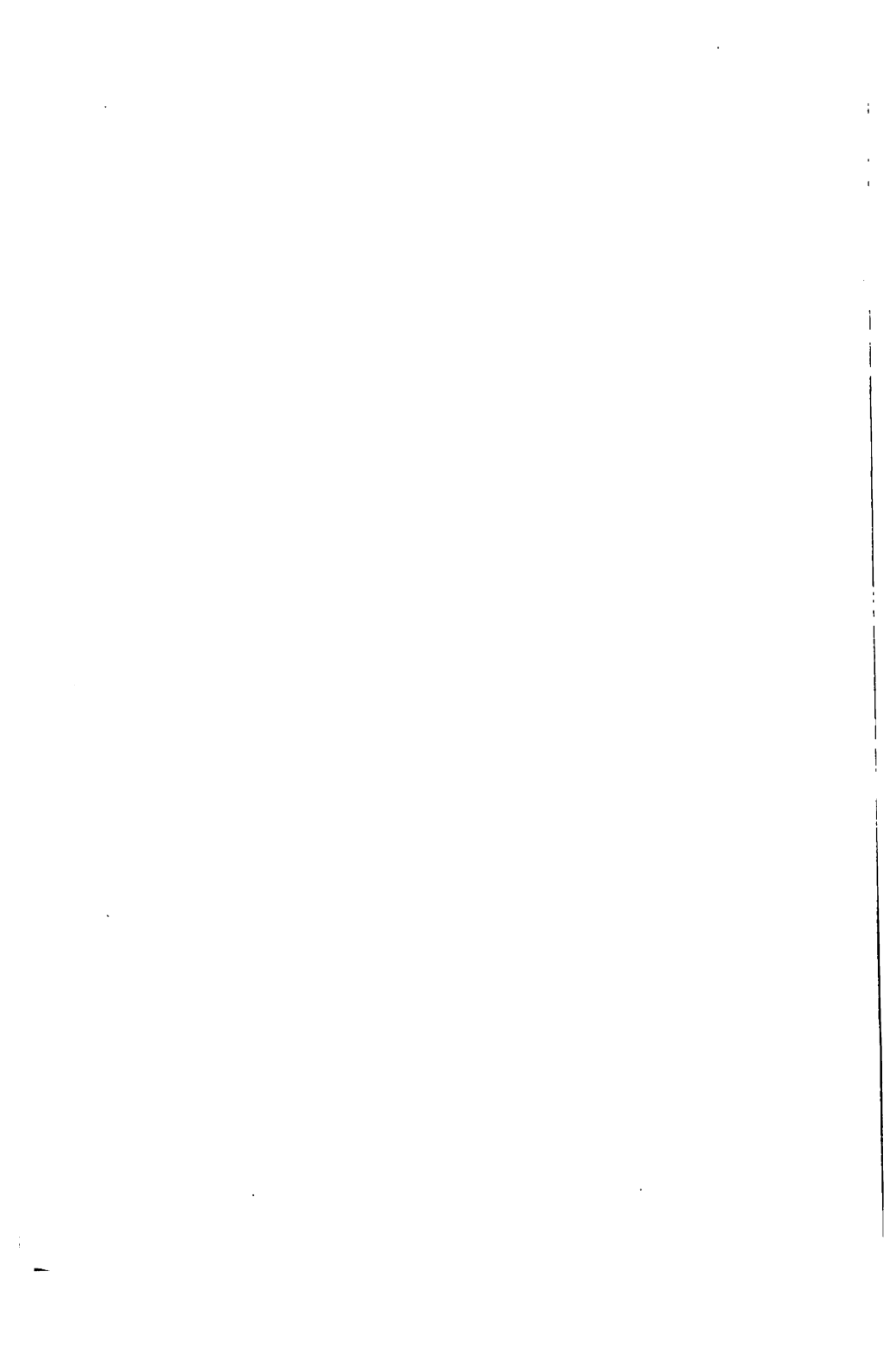
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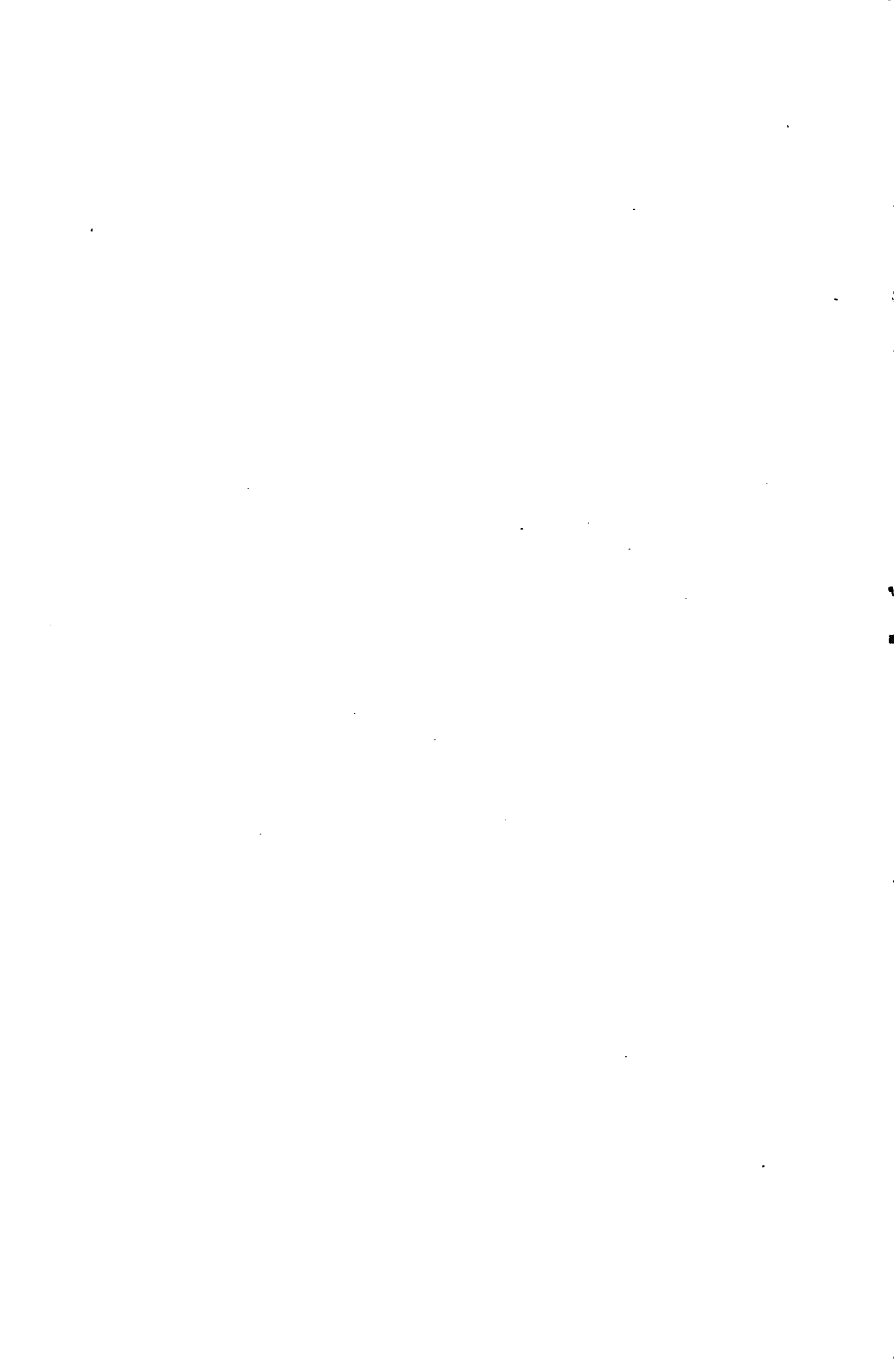
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## **ACTS, RESOLUTIONS AND MEMORIALS.**





ACTS,  
RESOLUTIONS AND MEMORIALS  
ADOPTED BY THE  
SIXTH LEGISLATIVE ASSEMBLY  
OF THE  
TERRITORY OF ARIZONA.

SESSION BEGUN ON THE ELEVENTH DAY OF JANUARY, AND  
ENDED ON THE TWENTIETH DAY OF FEBRUARY,  
A. D. 1871, AT TUCSON.

---

TUCSON:  
OFFICE OF THE ARIZONA CITIZEN.  
1871.

L11046  
DEC 23 1935

*Facsimile Reprint*

1935

R. A. Ogg

## CERTIFICATE.

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### TERRITORY OF ARIZONA,

#### OFFICE OF THE SECRETARY.

I, COLES BASHFORD, Secretary of the Territory of Arizona, do hereby certify that the ACTS, RESOLUTIONS and MEMORIALS herein contained are printed as passed by the Sixth Legislative Assembly of the Territory, according to the enrolled copies upon file in my office.

WITNESS my hand and the seal of the Territory,  
given at Tucson, this first day of May, A. D.

[L. s.]      eighteen hundred and seventy-one.

COLES BASHFORD,

Sec'y of the Territory.



# OFFICERS OF THE TERRITORY.

1871.

## FEDERAL.

POSITION.	NAME.	WHERE FROM.	LOCATION.
Delegate in Congress	R. C. McCormick..	New York....	Washington.
Governor .....	A. P. K. Safford...	Nevada .....	Tucson.
Secretary .....	Coles Bashford....	Wisconsin ..	Tucson.
Chief Justice .....	John Titus.....	Pennsylvania .	Tucson.
Associate Justice....	Isham Reavis. ....	Nevada.....	Arizona City.
Associate Justice....	C. A. Tweed .....	California ....	Prescott.
District Attorney....	C. W. C. Rowell ..	California ....	Arizona City.
Surveyor-General ...	John Wasson .....	Nevada.....	Tucson.
Marshal .....	I. Q. Dickason ....	California ....	Prescott.
Supt. Indian Affairs.	Herman Bendell...	New York....	
Col. Int. Revenue ...	Thomas Cordis .....	.....	Prescott.
Ass'r Int. Revenue ...	H. A. Bigelow ....	Massachusetts.	Prescott.
U. S. Depositary ...	C. H. Lord.....	New York....	Tucson.
Dep'y Col'r Customs.	James E. Baker ...	Illinois .....	Tucson.
Reg'r Land Office ...	W. J. Berry.....	.....	Prescott.
Receiver Land Office	George Lount .....	.....	Prescott.

## TERRITORIAL.

POSITION.	NAME.	WHERE FROM.	LOCATION.
Adjutant-General....	Samuel Hughes....	.....	Tucson.
Auditor .....	Chas. H. Lord ....	New Jersey...	Tucson.
Treasurer .....	John B. Allen.....	Maine .....	Tucson.
Attorney-General ...	James E. McCaffrey	California ....	Tucson.



# THE SIXTH LEGISLATIVE ASSEMBLY.

## COUNCIL.

NAME.	RESIDENCE.	OCCUPATION.	AGE.	WHERE BORN.
<i>Yavapai County.</i>				
John T. Alsap .....	Phoenix .....	Farmer.....	40	Kentucky.
Harley H. Cartter.....	Prescott .....	Lawyer ....	61	New York.
Andrew J. Marmaduke.	" .....	Farmer.....	45	Virginia.
<i>Mohave and Pah-Ute Co's.</i>				
Not represented.				
<i>Yuma County.</i>				
John H. Phillips.....	Eureka .....	Physician ..	56	New Jersey.
<i>Pima County.</i>				
Hiram S. Stevens .....	Tucson .....	Merchant...	39	Vermont.
Daniel H. Stickney ....	Santa Rita...	Clerk .....	58	Massachus'ts.
Estevan Ochoa.....	Tucson .....	Merchant...	37	Chihuahua.
Francisco S. Leon.....	" .....	Ranchero...	52	Arizona.

## HOUSE OF REPRESENTATIVES.

NAME.	RESIDENCE.	OCCUPATION.	AGE.	WHERE BORN.
<i>Yavapai County.</i>				
J. H. Fitzgerald .....	Wickenburg .	Metallurgist.	36	Kentucky.
John L. Taylor .....	Prescott .....	Farmer.....	39	"
William J. O'Neill ....	Kirkland Val.	" .....	40	Ireland.
G. A. Wilson .....	Phoenix .....	" .....	52	Virginia.
Joseph Melvin.....	Verde .....	" .....	40	Pennsylvania.
James L. Mercer.....	Phoenix .....	" .....	36	Ohio.
<i>Mohave and Pah-Ute Co's.</i>				
Not represented.				
<i>Yuma County.</i>				
Marcus D. Dobbins ....	Arizona City.	Lawyer ....	43	Pennsylvania.
C. H. Brinley.....	" .....	Miner.....	42	Massachus'ts.
Thomas J. Bidwell ....	Ehrenburg..	Gardener ...	38	Missouri.
<i>Pima County.</i>				
J. W. Anderson .....	Florence ....	Farmer.....	45	N. Carolina.
F. H. Goodwin .....	Tucson .....	Physician ..	37	Georgia.
William Morgan .....	" .....	Farmer.....	27	Pennsylvania.
W. L. Fowler.....	" .....	" .....	25	"
Ramon Romano .....	Tubac.....	" .....	34	Mexico.
Juan Elias .....	Tucson.....	" .....	30	"
Rees Smith.....	Tubac.....	" .....	42	Ohio.





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**ACTS.**



# ACTS.

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## AN ACT

To amend section six of an act entitled "An act creating a Board of Supervisors in the several counties of the Territory." Approved December 30th, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That section six of an act entitled "An act creating a Board of Supervisors in the several counties of the Territory," approved December 30th, 1865, be amended to read as follows :

§ 6. The Clerks of the several Boards of Supervisors in this Territory shall receive the following annual salary, to be paid quarterly, out of the general fund of the county, to wit: The County Recorder of Pima county, and *ex officio* Clerk of the Board of Supervisors, four hundred dollars. The County Recorder of Yavapai, and *ex officio* Clerk of the Board of Supervisors, the sum of four hundred dollars. The County Recorder of Yuma county, and *ex officio* Clerk of the Board of Supervisors, the sum of four hundred dollars. The County Recorder of, and *ex officio* Clerk of, the Board of Supervisors of Maricopa county, the sum of two hundred dollars. And no other fees or compensation shall be allowed for any service connected with the services rendered as such Clerk of the Board of Supervisors.

SEC. 2. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

Relating to the separate property of married women.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. Married women, of the age of twenty-one years and upwards, shall have the sole and exclusive control of their separate property; and may convey and transfer lands, or any estate or interest therein, vested in or held by them in their own right and without being joined by the husband in such conveyance, as fully and perfectly as they might do if unmarried.

SEC. 2. All acts and parts of acts so far as they conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force immediately.

APPROVED January 22d, 1871.

## AN ACT

To divorce Olive P. Turney from the bonds of matrimony heretofore contracted with Daniel G. Turney.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That Olive P. Turney, now residing in the county of Yavapai, in the Territory of Arizona, be and she hereby is divorced from her husband, Daniel G. Turney; that the bonds of matrimony heretofore existing between them be and the same hereby are dissolved; that she be and hereby is forever released therefrom; and that said marriage heretofore contracted and existing between her and her said husband be and hereby is annulled. And that the said Olive P. Turney have the right to marry again.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 25th, 1871.



AN ACT

Concerning Attorneys.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. Attorneys admitted to the Supreme Court shall pay to the Clerk the sum of one dollar each, which shall be all the fees allowed and charged for the admission of such attorneys, and for placing their names upon the roll of attorneys of the Territory.

SEC. 2. All acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall be in force from the date of its approval.

APPROVED January 25th, 1871.

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AN ACT

Extending the time for the collection of taxes in Mohave county, for the year A. D. 1870.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That the time allowed by section twenty-two, chapter thirty-three, Howell Code, as amended, for the collection of taxes, is hereby extended in Mohave county, for the year 1870, until the last day of March, A. D. 1871; and that the Collector of said Mohave county is hereby authorized to collect the taxes of said county on or before the first day of April next.

SEC. 2. That the County Collector of Mohave county shall account for and pay over to the County Treasurer all moneys collected by him arising from taxes, and render his final accounts to and settle with the County Treasurer, on or before the first Monday in April, A. D. 1871.

SEC. 3. That the acts of the County Collector, County Treasurer and other officers of Mohave county, under the provisions of this act, shall be held as legal and valid as though performed in full compliance with the said section of chapter thirty-three of the Code as amended.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED January 25th, 1871.

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## AN ACT

To change the county seat of Yuma county.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That the county seat of Yuma county be and the same is hereby located at Arizona City.

SEC. 2. That it shall be the duty of the Supervisors of the said county, within twenty days after the passage of this act, to cause the removal of all the offices of said county, and the records thereof, to Arizona City, and to provide suitable places for the safe keeping thereof, until public buildings can be erected for the accommodation of the several county officers.

SEC. 3. That all acts or parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

SEC. 4. That this act shall take effect and be in force from and after its passage.

APPROVED January 26th, 1871.

## AN ACT

Concerning the punishment for crime.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That in all prosecutions for any felonious crime, less than the grade of homicide, when the defendant or defendants shall be found guilty, and where the punishment for such crime, as now fixed by law, is imprisonment at hard labor in the Territorial Penitentiary for a term of years, it shall be and hereby is made the duty of the Presiding Judge of the Court in which such conviction shall be had to fix the time of such imprisonment, which shall be stated in the sentence when pronounced. Provided, however, that such term of imprisonment shall come within the time limited by law.

SEC. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

APPROVED January 27th, 1871.

---

AN ACT

For the protection of the rights of persons prosecuted for crime.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. All persons charged by indictment, or otherwise, with violation of the Criminal Code of this Territory, shall be competent to testify upon their trial for such offenses, if they choose so to do, providing that in all cases wherein the defendant declines to testify, the court shall instruct the jury that the fact of the defendant's declining to testify must not be construed by them as raising any presumption against him.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 27th, 1871.

---

## AN ACT

Fixing the terms for holding the District Courts.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That District Courts in the several counties of the Territory shall be held as follows, to wit:

In the county of Pima, on the first Mondays of March and October of each year.

In the county of Yuma, on the third Monday in March and the first Monday in November of each year.

In the county of Yavapai, on the third Mondays in June and November of each year.

SEC. 2. Special Terms of the District Court may be held in any county of this Territory for the trial of criminal causes and the transaction of criminal business generally, where it shall be represented to the Presiding Judge, by the District Attorney prosecuting for the proper county, that the interest of public justice in his judgment demands it. Such Special Terms shall be held upon notice for that purpose, to be published in some newspaper printed in said Territory and of general circulation therein, for a period of not less than twenty days, to be given by the Clerk of such Court under the direction of the Presiding Judge.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED January 27th, 1871.

## AN ACT

To repeal section fourteen of chapter ten, Howell Code,  
"Of crimes and punishments."

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section fourteen, chapter ten of the Howell Code, "Of crimes and punishments," third division, entitled "Who may be a witness in criminal cases," be and the same is hereby repealed.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 27th, 1871.

---

## AN ACT

## Concerning Witnesses.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. For the purpose of impeaching the credibility of any witness in any judicial proceeding, civil or criminal, in any court in this Territory, the general reputation of such witness for honesty, integrity, truth or veracity may be inquired into.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED January 27th, 1871.

## AN ACT

Fixing the compensation of members of the Legislative Assembly and certain officers of each branch thereof.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That the members of the Legislative Assembly, the Secretary of the Council and his Assistant Secretary, the Chief Clerk of the House of Representatives and his Assistant Clerk, and the Sergeants-at-Arms of each branch of the Assembly, shall receive out of the Territorial Treasury for their services the sum of three dollars per diem. The Enrolling and Engrossing Clerks of the Council and the House of Representatives, for their services, the sum of three dollars per diem, and the Door Keepers, Night Watchmen and Messengers of the Council and House, for their services, each the sum of two dollars per diem.

SEC. 2. The members of the present Legislative Assembly, and the officers of either House above named, shall receive the above compensation for their services at the present session, and from the commencement thereof.

SEC. 3. The above compensation shall be paid to the persons and officers named in section one of this act, by the Territorial Treasurer, out of any moneys in the Territorial Treasury not otherwise appropriated, upon a warrant to be drawn upon the Treasurer, by the Auditor of the Territory, in favor of the parties entitled thereto.

SEC. 4. At the final adjournment of each session of the Legislative Assembly the Auditor shall draw warrants in favor of those entitled under the preceding sections of this act, for the amounts due to each: *provided*, that the warrants of the Secretary of the Council and the Chief Clerk of the House of Representatives shall not be issued to them, except upon a certificate signed by the President of the Council, and the Speaker of the House of Representatives respectively, to the effect that such Secretary and Clerk have filled and discharged the duties of such offices, setting forth the time during which such services have been performed and the amount to which each is entitled: and *provided, further*, that such warrants shall only be issued to the other officers, above named, upon

presentation to the Auditor of a like certificate, signed, as to the officers of Council, by the President and Secretary thereof, and as to the officers of the House of Representatives, by the Speaker and Chief Clerk thereof.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED January 27th, 1871.

---

## AN ACT

### Concerning Constables.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. There shall be elected at the general election of each township, one and not more than two Constables, by the qualified electors thereof, and who shall hold their office for the term of two years, and until their successors are elected and qualified.

SEC. 2. No Constable shall assist in conducting any suit or proceedings in the Justices' Courts, nor purchase or be interested in any claims purchased for the purpose of being prosecuted in such courts, or be a purchaser or interested in the purchase of any property sold by him, on any process issued by any Justice of the Peace.

SEC. 3. Every person elected or appointed to the office of Constable, before he enters upon the duties of his office, and within the time prescribed by law for filing his official oath, shall execute a bond, conditioned for the faithful performance of his several duties, with two or more good and sufficient sureties, made payable to the Territory, in the penal sum of one thousand dollars, to be approved by the Chairman of the Board of Supervisors.

The condition of said bond shall be in substance as follows:

Whereas the above bounden                      hath been elected or appointed to the office of Constable of township No.                      of

the county of           ; at the general election held therein, on the           day of           : Now, therefore, the condition of the above obligation is such, that if said           shall well and faithfully, in all things, perform and execute the office of Constable of said township, during his continuance in office, by virtue of said election or appointment, without fraud, deceit or oppression, and shall pay over all moneys that may come into his hands as such Constable, then the above obligation to be void; otherwise to be and remain in full force.

SEC. 4. The Chairman of the Board of Supervisors shall indorse on such bond his approbation of the sureties therein named, and shall then cause the same to be filed in the office of the County Recorder; and a copy of such bond, certified by the County Recorder, shall be presumptive evidence of the contents and execution thereof, and all actions against a Constable or his sureties, upon any such bond, shall be prosecuted within two years after the expiration of the term for which the Constable named therein shall have been elected or appointed.

SEC. 5. Constables shall serve all warrants, notices and processes lawfully directed to them, and shall perform such other duties as are required of them by law.

SEC. 6. Any Constable may serve any writ, process or order lawfully directed to him, in any township in his county.

SEC. 7. Constables shall be ministerial officers of Justices of the Peace, and shall attend upon the sessions of the District Courts for their respective counties, when notified for that purpose by the Sheriff.

SEC. 8. That sections 1, 2, 3, 4, 5, 6 and 7, of chapter eight, Howell Code, "Of Constables," approved November 10th, A. D. 1864, be and they are hereby repealed.

SEC. 9. This act shall take effect and be in force from and after its passage.

APPROVED January 27th, 1871.



## AN ACT

To confer additional powers upon the Board of Supervisors of Yavapai county, and upon the Treasurer thereof.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. The Board of Supervisors of Yavapai county are hereby authorized and empowered to appropriate, allow and order paid out of the general fund, not to exceed the sum of one thousand dollars, to John L. Taylor, being money expended by him while Assessor of the County of Yavapai for extra work in assessing, and in making up the assessment rolls of personal property and real estate for eighteen hundred and seventy, and other services incidental thereto.

SEC. 2. The Treasurer of Yavapai county, is hereby directed to pay such sum as may be allowed and ordered paid to the said John L. Taylor, out of the general fund of said County of Yavapai.

SEC. 3. This act shall take effect from and after its passage.

APPROVED January 27th, 1871.

## AN ACT

To divorce Loreta A. Hewitt, from the bonds of matrimony heretofore existing between her and Francis Hewitt.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That Loreta A. Hewitt shall be and hereby is forever released from the bonds of matrimony heretofore existing between her and Francis Hewitt, and is forever absolved from all obligations, by virtue of her marriage with said

Francis Hewitt, and that she have the care and custody of her child, the fruit of her marriage with said Francis Hewitt.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED February 7th, 1871.

---

## AN ACT

Relating to Justices of the Peace and their jurisdiction.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. There shall be elected at the next general election two Justices of the Peace in each township in this Territory, by the qualified electors thereof, and in each such township containing a population of more than eight hundred persons, to be ascertained by the Board of Supervisors, there shall be an additional Justice elected.

SEC. 2. The votes given for Justices of the Peace shall be canvassed and returned in the same manner as votes are canvassed and returned for other county officers, and upon such returns being made, the Board of Supervisors shall proceed to estimate the votes, make and deliver a certificate to the person or persons elected, as in the case of other county officers.

SEC. 3. Each Justice of the Peace shall hold his office for the term of two years, unless removed as provided by law, and until his successor is duly elected and qualified; Justices of the Peace for the purposes of removal or supplying vacancies shall be considered as county officers.

SEC. 4. At the general election held previously to the expiration of the term of office of any Justice of the Peace, another shall be elected to supply his place.

SEC. 5. Every Justice of the Peace, upon the expiration of his term of office, or upon his removal therefrom, shall, upon demand, deliver to his successor in office his docket and all

books and papers belonging to or in possession of such Justice by virtue of his office, and if any such Justice of the Peace shall neglect or refuse so to deliver such docket, books and papers, he shall forfeit a sum not exceeding five hundred dollars, to be recovered in an action in the name of the Territory of Arizona, and shall be moreover liable to any person interested for all damages he may sustain in consequence of such neglect or refusal, and in case of the refusal of such Justice to comply with the requirements of this act he shall be deemed guilty of a misdemeanor, and punished accordingly.

SEC. 6. The newly elected and qualified Justice of the Peace shall, upon receipt of the books and papers of his predecessor, proceed to carry out all the unfinished business of his predecessor according to law.

SEC. 7. Each Justice of the Peace appointed to fill vacancy, and each Justice elected for a term, within ten days after notice of his election or appointment shall take and subscribe his oath of office before some officer authorized to administer oaths, and file the same with the County Recorder.

SEC. 8. Each Justice of the Peace, before he enters upon the duties of his office, and within the time limited by law for filing his official oath, shall execute a bond, conditioned for the faithful performance of his several duties, with two or more good and sufficient sureties, made payable to the Territory, in the penal sum of one thousand dollars, and to be approved by the Chairman of the Board of Supervisors.

The condition of said bond shall be in substance as follows: Whereas, the above bounden                      hath been elected or appointed to the office of Justice of the Peace of township No.                      , of the county of                      , at the general election held therein, on the                      day of                      . Now, therefore, the condition of the above obligation is such, that if said                      shall well and faithfully in all things perform and execute the office of Justice of the Peace of said township during his continuance in office, by virtue of said election or appointment, without fraud, deceit or oppression, and shall pay over all moneys that may come into his hands as such Justice of the Peace, then the above obligation to be void, otherwise to be and remain in full force.

SEC. 9. The Chairman of the Board of Supervisors shall indorse on such bond his approval of the sureties therein named, and such Justice shall then cause the same to be filed

in the office of the County Recorder, and a copy of such bond, certified by such County Recorder, under his hand and seal, shall be presumptive evidence of the contents and execution thereof.

SEC. 10. If any Justice of the Peace shall enter upon the execution of his office before having filed his official oath or bond as aforesaid, as required by law, he shall forfeit the sum of one thousand dollars.

SEC. 11. The courts held by Justices of the Peace in this Territory shall be denominated "Justices' Courts," and shall have the jurisdiction conferred by this act.

SEC. 12. Justices' Courts shall have jurisdiction of the following actions and proceedings:

1. Of an action arising on contracts for the recovery of money only, if the sum claimed does not exceed three hundred dollars.

2. Of an action for damages for injury to the person, or for taking or detaining personal property, or for injuring real or personal property, if the damages claimed do not exceed three hundred dollars.

3. Of an action for a fine, penalty or forfeiture, not exceeding three hundred dollars, given by statute or the ordinance of an incorporated city.

4. Of an action upon a bond conditional for the payment of money not exceeding three hundred dollars, though the penalty exceed that sum, the judgment to be given for the sum actually due; when the payments are to be made by installments, an action may be brought for each installment as it becomes due.

5. Of an action upon a surety, bond or undertaking, taken by them, though the penalty exceed, if the amount claimed does not exceed, three hundred dollars.

6. Of an action for the foreclosure of any mortgage, or the enforcement of any lien on personal property, when the debt secured does not exceed three hundred dollars.

7. Of an action to recover personal property, when the value of such property does not exceed three hundred dollars.

8. To take and enter judgment on the confession of a defendant, when the amount confessed does not exceed three hundred dollars.

9. Of proceedings respecting vagrants and disorderly persons.

SEC. 13. The jurisdiction conferred by the last section shall not extend, however,

1. To a civil action in which the title to real property shall come in question.

2. Nor to an action or proceeding against ships, vessels or boats, or against the owners or masters thereof, where the suit or proceeding is for the recovery of seaman's wages for a voyage performed, in whole or in part, without the waters of this Territory.

SEC. 14. These courts shall also have jurisdiction,

1. Of petit larceny.

2. Assault and battery not charged to have been committed upon a public officer in the discharge of his duties, or with intent to kill.

3. Breaches of the peace, riots, affrays, committing a willful injury to property, and all misdemeanors punishable by fine not exceeding three hundred dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 15. There shall be no terms in Justices' Courts; these courts shall always be open.

SEC. 16. That chapter seven, Howell Code, "Of Justices of the Peace," approved November 10th, A. D. 1864, and an act entitled an act "conferring jurisdiction on Justices of the Peace," approved December 30th, A. D. 1865, be and they are hereby repealed.

SEC. 17. This act shall take effect and be in force from and after its passage.

APPROVED February 7th, 1871.

## AN ACT

To amend an act amendatory of chapter twenty-nine, Howell Code "Of Probate Courts," approved October 3d, 1867.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section fifty-two of said chapter twenty-nine as amended be amended to read as follows:

§ 52. Administration of the estate of a person dying intestate shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled in the following order:

1st. To the surviving husband or wife, or such person as he or she may request to have appointed.

2d. The children.

3d. The father or mother.

4th. The brothers.

5th. The sisters.

6th. The grandchildren.

7th. Any others of the next of kin who would be entitled to share in the distribution of the estate.

8th. Public Administrators.

9th. Creditors.

10th. Any person legally competent; *provided*, that where there was any partnership existing between the intestate at the time of his death, and any other person (except in cases where such partner may be a relation by blood or marriage within the fourth degree of consanguinity), shall in no case be appointed administrator of the estate of such intestate.

SEC. 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 7th, 1871.

## AN ACT

Amendatory of section fifty-nine and sixty, chapter ten, Howell Code, "Of Crimes and Punishments."

*Be it enacted by the Legislative Assembly of the Territory Arizona :*

SECTION 1. That section fifty-nine, chapter ten, Howell Code, is hereby amended so as to read as follows: Robbery is the felonious and violent taking of money, goods or other valuable thing from the person of another by force or intimidation. Every person guilty of robbery shall be punished by imprisonment in the Territorial Penitentiary for a term not less than five nor more than twenty years.

SEC. 2. That section sixty, chapter ten, Howell Code, is hereby amended so as to read as follows: Every person who shall feloniously steal, take and carry, lead or drive away, the personal goods or property of another, of the value of fifty dollars or more, shall be guilty of grand larceny, and upon conviction thereof shall be punished by imprisonment in the Territorial Penitentiary for any term not less than one year nor more than ten years.

SEC. 3. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 7th, 1871.

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AN ACT

In relation to personal mortgages in certain cases.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. Chattel mortgages may be made on the following property to secure the payment of just indebtedness: Up-

holstery and furniture used in hotels and public boarding houses, when mortgaged to secure the purchase money of the identical articles mortgaged, and not otherwise; saw-mill, grist-mill, and steamboat machinery; tools and machinery used by machinists, foundry-men and other mechanics; steam boilers, steam engines, locomotives, engines and the rolling stock of railroads; printing presses, and other printing material, instruments and chests of a surgeon, physician or dentist; libraries of all persons; machinery and apparatus for mining purposes; growing crops, grain in store or field; teams and implements pertaining to farm; stock of all kinds on farm. No mortgage made by virtue of this act shall have any legal force or effect (except between the parties thereto), unless the residence of the mortgagor and mortgagee, their profession, trade or occupation, the sum to be secured, the rate of interest to be paid, when and where payable, shall be set out in the mortgage; and the mortgagor and mortgagee shall make affidavit that the mortgage is *bona fide*, and made without any design to defraud, or delay creditors, which affidavit shall be attached to such mortgage.

SEC. 2. All mortgages made in pursuance of this act (with the affidavit attached) shall be recorded in the county where the mortgagor lives, and also in the county or counties where the property is located or used; *provided*, that property *in transitu* from the possession of the mortgagee to the county of the residence of the mortgagor, or to a location for use, shall, during a reasonable time for such transportation, be considered as located. It shall be the duty of the County Recorders of this Territory to provide proper books of record and of index, in which they shall make a true copy or record of all mortgages made in pursuance of the provisions of this act, and left with them for record, and they shall enter, in alphabetical order, the names of mortgagee and mortgagor in such index books. The Recorder shall note on the mortgages and in the index books the time (in like manner as mortgages on real estate) when the same was received into the office for record, and the recording shall take effect from that time. The Recorder's fees for recording and indexing shall be the same as are allowed him by law for like services for recording deeds of real estate, to be paid in advance by the person presenting the same for record.

SEC. 3. No chattel mortgage shall be valid (except between the parties thereto), unless the same shall have been made, executed and recorded in conformity to the provisions of this



act; *provided*, however, if the mortgagee receives and retains the actual possession of the property mortgaged, he may omit the recording of his or her mortgage during the continuance of such actual possession.

SEC. 4. A right of redemption shall remain in the mortgagor until the same shall have been foreclosed by due process of law, or by agreement between the parties to the mortgage, which agreement shall be entered on the record of the mortgage, and for the entering of which the Recorder shall be entitled to the same rate of fees as for recording the original, to be paid in advance by the parties to the mortgage.

SEC. 5. All property mortgaged in pursuance of the provisions of this act may be attached at the suit of the creditors of the mortgagor; if such property be attached, then such creditor shall pay or tender to the mortgagee the actual amount due him on such mortgage before the officer making such attachment shall be entitled to the actual possession of such property. When property thus situated and thus redeemed shall have been sold by the officer by virtue of due legal proceedings, out of the proceeds of the sale he shall first pay to the creditor the amount advanced by him to pay the mortgage, with legal interest thereon; second, pay all legal costs and fees appertaining to the judgment, execution and sale; third, pay the judgment creditor the amount of the judgment, and any remaining surplus pay to the judgment debtor. If the creditor of the mortgagor prefers, he may cause to be attached the right of redemption of said mortgagor, and cause the same to be sold, subject to the rights of the mortgagee. Such attachment shall be made by leaving a copy of the writ of attachment, with notice of the attachment, with the mortgagee. When the sale of such equity is made on an execution obtained by such attaching creditor, the sum realized shall be applied to the payment of costs, fees, discharge of the execution, and any remainder paid the judgment debtor. When the interest of the mortgagee shall be attached, a copy of the writ of attachment shall be left with the mortgagor, with notice of the attachment, and any payment made by him to the mortgagee after such notice shall not release the attachment or affect the rights of the attaching creditor, but said mortgagor may pay the amount due on said mortgage to the officer who made the attachment, and thereupon said officer shall release said attachment and hold the money so paid him in the same manner as if he had originally attached said money.

SEC. 6. This act shall not be so construed as to interfere or conflict with the lawful mining rules, regulations or customs in regard to the locating, holding or forfeiture of claims, but in all cases of mortgages of mining interests under this act the mortgagee shall have the right to perform the same acts that the mortgagor might have performed for the purpose of preventing a forfeiture of the same under the said rules, regulations or customs of mines, and shall be allowed such compensation therefor as shall be deemed just and equitable by the court ordering the sale upon a foreclosure; *provided*, that such compensation shall in no case exceed the amount realized from the claim by a foreclosure and sale.

SEC. 7. The mortgagee, in all mortgages made under this act, shall be allowed one day for every thirty miles of the distance between his residence and the County Recorder's office where such mortgage ought by law to be recorded, to conform to the provisions of this act, before any attachment shall be valid, made by the creditors of the mortgagor.

SEC. 8. This act to have full force and effect on and after the first day of June, 1871.

APPROVED February 7th, 1871.

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## AN ACT

To define the duties and liabilities of Pawnbrokers and Pledges.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. Every person or firm engaged in the business of pawnbroker or pledgee, or of the purchase or sale of second-hand clothing, wares or merchandise, shall keep a register book of the size known by stationers as six quarto extra cap, in which shall be made an entry, with ink, in the English language, at the time of loan, pledge or purchase, a true and accurate account and description of every article of property pledged or purchased, the name and residence of the pledger or vendor, the date, duration, amount and rate of interest of

every loan made, or the date and hour of purchase of any property purchased, and shall, if any loan be made or property pledged, at the time of the loan or pledge, deliver to the pledger a written or printed memorandum, signed by him, her or them, containing a copy of said entry, and shall in like manner keep an account of all sales made by him, her or them.

SEC. 2. The rate of interest, or percentage, which shall be lawfully charged by any pawnbroker or pledgee shall not exceed five per cent per month, in advance, on all loans exceeding twenty dollars, which shall include all charges for discount, commissions, storage, brokerage, wasting, and all and every charge or charges thereupon; nor shall said interest at any time be compounded.

SEC. 3. Any pawnbroker or pledgee, who shall directly or indirectly charge or receive any interest greater than five per cent per month, or by charging commissions, discount, brokerage, storage, wastage, or other charge, or shall attempt to increase said interest, shall forfeit three times the value of the article pledged or to be pledged, to be recovered by the owner or pledger in a civil action, which may be brought by the party aggrieved.

SEC. 4. No pawnbroker or pledgee shall sell or dispose of any article pledged to them and unredeemed, until it has remained in his, her or their possession three months after the last day of redemption; and all such sales shall be at public auction, upon notice of five days, published in some newspaper printed at the place where the sale takes place, and if no newspaper is there printed, then by posting notices in two public places five days before the sale, giving the place where the article will be sold, and a list of said articles, which sales shall, in all cases, take place in the town or city where such articles are pledged.

SEC. 5. After deducting from the proceeds of any sale, as aforesaid, the amount of the loan, the interest then due as herein provided, and ten per cent on the loan additional for the expense of the sale, such pawnbroker or pledgee shall pay the balance to the person entitled to redeem such property; if no sale had been made, and if not so paid on demand, three times the amount thereof shall be forfeited, to be recovered by the owner or pledger, in a civil action to be brought by him therefor.

SEC. 6. Every pawnbroker or pledgee, or purchaser or seller of second-hand clothing, wares or merchandise, shall exhibit his, her or their register book, and all articles received in pledge or purchased by him, her or them, and his, her or their account of purchases or sales, to any Sheriff, Constable, or Police Officer possessing the necessary writ or warrant to search for personal property. It shall be the duty of every pawnbroker or pledgee, or any purchaser or seller of second-hand clothing, wares and merchandise, to produce his, her or their register book for inspection, to any Sheriff, Constable or Police Officer, whenever so required by the order of any committing magistrate of the county, and such order may be made by such magistrate whenever he shall deem it expedient for the purpose of ascertaining the place of concealment of any stolen property.

SEC. 7. Every pawnbroker, pledgee or purchaser or seller of second-hand clothing, wares and merchandise, who shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than fifty nor exceeding three hundred dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

SEC. 8. All fines collected under or for the violation of the provisions of this act shall be paid into the treasury of the county where the same shall be collected, and applied to the support of the public schools of said county.

SEC. 9. This act shall take effect and be in force from and after its passage.

APPROVED February 7th, 1871.

## AN ACT

To amend sections three, four, fifteen, sixteen, twenty-nine, thirty-nine, forty, and to repeal sections forty-one, of an act entitled An act to amend and re-enact chapter fifty-two, Howell Code, "Of the Incorporation of Villages;" approved October 3d, A. D. 1867.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section three of said act be amended so as to read as follows:

§ 3. Any number of legal voters, not less than fifteen, residing within such territory, may make application for the incorporation of such village to the Board of Supervisors of the county in which such territory, or the larger part thereof, may be situated, at any regular or special session of such Board.

SEC. 2. That section four of said act be amended so as to read as follows:

§ 4. Such application shall be by petition, and be based on the last census of the resident population of such territory taken by the United States Marshal, if such census has been taken within twelve months prior to such application, otherwise, to be based on the census taken by the Sheriff of the county, not less than two weeks prior to such application.

SEC. 3. That section fifteen of said act be amended so as to read as follows:

§ 15. The officers first elected shall hold their offices until the second Tuesday in January following their election, and those subsequently elected shall hold their respective offices until the second Tuesday in January following their election, and until their successors are elected and qualified. Election for officers (except at the first election) shall be held on the first Tuesday in January in each year, at such place or places as shall be designated by the Common Council.

SEC. 4. That section sixteen of said act be amended so as to read as follows:

§ 16. Of the four Councilmen first elected, two shall hold office until the second Tuesday in January following their election, and two until one year from the second Tuesday in January following their election. And the said Councilmen

shall, at the first meeting of the Council subsequent to their election, decide among themselves by lot which of their number shall hold office for the long term and which for the short term.

SEC. 5. That section twenty-nine of said act be amended so as to read as follows:

§ 29. The Mayor shall be the chief executive officer of the village, and take care that the by-laws, ordinances and orders of the Council are faithfully executed.

SEC. 6. That section thirty-nine of said act be amended so as to read as follows:

§ 39. The Council may establish the line parallel to and bounding upon the streets or highways upon which buildings may be erected, and beyond which such buildings shall not extend. A Justice of the Peace residing in said village shall be the Recorder, and shall be selected out of the qualified Justices of the Peace residing in said village by the Common Council.

SEC. 7. That section forty of said act be amended so as to read as follows:

§ 40. The Marshal shall be a Constable for said village, and may serve any process issued by a Justice, or any other officer by virtue of this chapter; and shall perform all such services as may be required by the Council, and shall be entitled to the same fees as Constables for similar services, and shall be entitled to the same privileges and subject to the same liabilities as Constables in the discharge of similar duties; said Marshal shall have the general supervision of the streets, commons, lanes, public grounds, burial places and alleys in said village, under the direction of the Council, and shall see that the by-laws and ordinances are properly observed.

SEC. 8. That section forty-one of said act be and hereby is repealed.

SEC. 9. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 10. This act shall take effect and be in force from and after its passage.

APPROVED February 7th, 1871.

## AN ACT

To amend chapter twenty-nine, Howell Code, "Of Probate Courts."

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That section one hundred and fifty-two of said chapter twenty-nine be amended to read as follows:

§ 152. The sale of personal property shall be made at public auction, and after public notice given for at least ten days, unless for good reason shown, the Probate Judge shall order a private sale; but no private sale shall be effected for any purpose till the same shall be approved by the Probate Judge. The sale may be made either at the court-house door, at the residence of the deceased, or at some other public place.

SEC. 2. That section one hundred and sixty-seven of said chapter twenty-nine be amended to read as follows:

§ 167. Such sale at public auction shall be made in the county where the land is situated, but where the tract of land is situated in two or more counties, it may be sold in either of said counties. The sale shall be made between the hours of nine o'clock in the morning and the setting of the sun on the same day, unless the court shall have ordered that the real estate, or some part thereof, may be sold at either public or private sale.

SEC. 3. When a sale of real estate is ordered, and it is to be made at private sale, notice of the same shall be posted up in three of the most public places in the county in which the land is situated, and shall be published in a newspaper, if there be one printed in the same county, and if there be none, then in such paper as the court may direct, for three weeks successively next before the day on or after which the sale will be made, in which notice the lands and tenements to be sold shall be described with common certainty. The notice shall state a day on or after which the sale will be made, and a place where offers or bids will be received. The day last referred to shall be at least fifteen days from the first publication or printing of the notice, and the sale shall not be made before said day, and shall be made within six months thereafter. Such bids or offers shall be in writing, and may be left at the place designated in the notice, or delivered to the executor or ad-

ministrator personally, and may be filed in the office of the Clerk of the Probate Court, to which the return of sale must be made, at any time after the first publication of the notice and before the making of the sale; *provided*, that if it should be shown that it will be for the best interest of the estate, the court or Judge may, by an order, shorten the time of notice, which shall not, however, be less than one week, and may provide that the sale may be made on or after a day less than fifteen days, but not less than eight days, from the first publication and posting of the notice, in case the notice of the sale and the sale may be made to correspond with such order.

SEC. 4. No such sale of real estate at any private sale shall be confirmed, unless the sum offered shall be at least ninety per cent of the appraised value thereof, nor unless such real estate shall have been appraised within one year of the time of such sale. If the said real estate has not been so appraised, or if the court shall be satisfied that the appraisement is too high or too low, appraisers shall be appointed, and they shall make an appraisement thereof in the same manner as in case of the appraisement of the inventory; and this may be done at any time before the sale or before the confirmation thereof.

SEC. 5. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

APPROVED February 13th, 1871.

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## AN ACT

To amend chapter forty-seven of the Howell Code, "Of Jurors," and chapter eleven of said Code, "Of Proceedings in Criminal Cases."

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. Section one of chapter forty-seven of Howell Code, "Of Jurors," is hereby amended so as to read follows:



§ 1. Jurors for all the Courts of Record in this Territory may be selected and summoned as provided in this chapter.

SEC. 2. Section two of said chapter is hereby amended so as to read as follows:

§ 2. The Board of Supervisors of the several counties of this Territory, at their first regular meeting after the first meeting in January in each year, shall cause to be made a list of all persons within their respective counties qualified and liable to serve as jurors, and shall from time to time revise the same so as to keep such list as complete as practicable, and such Boards shall cause certified copies of such original and revised lists to be filed in the office of the Clerk of the District Courts in their several counties.

SEC. 3. Section three of said chapter is hereby repealed.

SEC. 4. Section eight of said chapter is hereby amended so as to read as follows:

§ 8. Upon receipt of the order, as mentioned in the last section, it shall be the duty of the Sheriff to proceed to summon from the body of the county twenty-four persons, duly qualified, to serve as grand jurors until discharged by the court. He shall be furnished by the Clerk of the court with a certified copy of such jury list, but shall not be confined to such list in the selection of a grand jury, but may summon any person qualified to serve as a juror under the provisions of section four of this chapter, and not exempt under the provisions of section five.

SEC. 5. Section nine of said chapter is hereby amended so as to read as follows:

§ 9. The Sheriff shall summon each juror by giving notice to each of them personally, or leaving a written notice at the juror's place of residence with some person of suitable age and discretion.

SEC. 6. Section ten of said chapter is hereby amended so as to read as follows:

§ 10. The Sheriff shall at the opening of the court make returns thereto, specifying the persons summoned and the manner in which each was notified.

SEC. 7. Section fourteen of said chapter is hereby amended so as to read as follows:

§ 14. If the Judge of the court, as provided in section seven of this chapter, shall not deem it necessary that a grand jury

shall be summoned before the commencement of a session of his court, and after the commencement of the session it shall appear proper that a grand jury should be summoned, he shall cause an order to be entered upon the minutes of the court ordering the same, and a copy of such order shall be delivered to the Sheriff.

SEC. 8. Section fifteen of said chapter is hereby amended so as to read as follows:

§ 15. It shall be the duty of the Sheriff upon receipt of the order mentioned in section fourteen, to proceed to summon twenty-four persons, in the manner provided in sections eight and nine of this chapter, as grand jurors, to appear before the court at the time mentioned in said order.

SEC. 9. Section sixteen of said chapter is hereby repealed.

SEC. 10. Section seventeen of said chapter is hereby amended so as to read as follows:

§ 17. A District Court Judge may order a trial jury summoned for any term of the District Court in his district.

SEC. 11. Section eighteen of said chapter is hereby amended so as to read as follows:

§ 18. The trial jurors for the District Court shall be summoned in the same manner as grand jurors are required to be summoned by this chapter, and the provisions of this chapter as to the formation of grand jurors, and the imposition of a fine upon grand jurors for non-attendance when summoned, shall apply to the formation of trial jurors, in these courts, the word "trial" being substituted for "grand" in the sections of that article, and except that no trial jury shall consist of more than twelve jurors.

SEC. 12. Section nineteen of said chapter is hereby amended so as to read as follows:

§ 19. When from any cause it shall become necessary during the term, the court may order the Sheriff to summon, either immediately or for a day fixed, from the electors of the county, but not from the bystanders, a sufficient number of persons to complete the trial jury or form a new trial jury, as the case may be.

SEC. 13. Section twentieth of said chapter is hereby amended so as to read as follows:

§ 20. The Clerk of said court shall issue the order, and the Sheriff shall execute and return it at the time specified, with

a list of the persons summoned ; if he has been unable to summon the whole number, he shall return the order, with the list of the names of the persons summoned.

SEC. 14. Section twenty-three of said chapter is hereby repealed.

SEC. 15. Section twenty-six of said chapter is hereby amended so as to read as follows :

§ 26. Whenever a jury shall be by law registered in the Probate Court, the Judge of such court may order a jury to be summoned in the manner provided in this chapter for jurors in the District Courts.

SEC. 16. Section "one hundred and sixty-one," of chapter eleven of Howell Code, "Of proceedings in criminal cases," is hereby amended so as to read as follows :

§ 161. A challenge to the panel may be interposed if the officer who summoned the jury is the actual prosecutor or the party aggrieved, or if he be of actual affinity to either of the parties, or if he return any individual at the request of the prosecutor or defendant, or if in any manner he hath acted corruptly and with a view to the favor or injury of the prosecutor or defendant in selecting and summoning the jury.

SEC. 17. Section three hundred and three of said last-named chapter is hereby amended so as to read as follows :

§ 303. A challenge to the panel shall be made in the same form and determined in the same manner as when made to a juror.

SEC. 18. Section three hundred and ten of said last-named chapter is hereby repealed.

SEC. 19. All laws and parts of laws, so far as they conflict with the provisions of this act, are hereby repealed.

SEC. 20. This act shall take effect and be in force from and after its passage.

APPROVED February 13th, 1871.

## AN ACT

To provide for the appointment of Commissioners of Deeds for other States and Territories, and to repeal chapter thirty-nine of the Howell Code.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That the Governor is hereby authorized to name, appoint and commission one or more Commissioners in each of the other States or Territories of the United States, or in the District of Columbia, as he may deem expedient, which Commissioners shall continue in office for the term of four years, unless sooner removed by the Governor; *provided*, that the term of all Commissioners now in office shall expire on the 31st day of December, A. D. 1871. Said Commissioners shall have authority to take acknowledgment and proof of the execution of any deed, mortgage or other conveyance of any land, tenements or hereditaments, lying and being in this Territory, and proof of heirship to property, any contract, letter of attorney or other writing under seal, to be used and recorded in this Territory, and such acknowledgment or proof, taken or made in the manner directed by the laws of this Territory, and certified by any one of said Commissioners before whom the same be taken or made, under his seal, which certificate shall be indorsed on said deed or instrument aforesaid, shall have the same force and effect, and be as good and valid in law for all purposes, as if the same had been taken or made before any officer authorized to take such acknowledgment residing in this Territory.

SEC. 2. Every Commissioner appointed by virtue of this act shall have full power and authority to administer an oath or affirmation to any person who shall be willing and desirous to make such oath or affirmation before him, and such affidavit or affirmation made before such Commissioner shall and is hereby declared to be as good and effectual, to all intents and purposes, as if taken by any officer authorized to administer oaths resident in this Territory; *provided*, that willful and false swearing in taking any such oath or affirmation would, by the laws of the State wherein the same shall be made, be deemed a perjury.

SEC. 3. Every Commissioner appointed as aforesaid, before he shall proceed to perform any duty under and by virtue of this chapter, shall take and subscribe an oath or affirmation before any officer authorized by law to administer oaths, in the city or county in which such Commissioner shall reside, to well and faithfully execute and perform all the duties of such Commissioner, under and by virtue of the laws of this Territory, which oath or affirmation shall be filed in the office of the Secretary of this Territory.

SEC. 4. It shall be the duty of the Secretary of the Territory to accompany each commission with a copy of this act and a blank oath of office, to be properly executed and returned to him by the person appointed; and he shall also, before the 31st day of December, 1871, inform by letter each of the Commissioners now in office of the date of the termination of their said office, in accordance with the provisions of this act, and the Secretary of the Territory shall be entitled to receive a compensation of ten dollars from each person hereafter appointed and commissioned in accordance with the provisions of this act.

SEC. 5. Chapter thirty-nine of the "Howell Code" is hereby repealed.

SEC. 6. This act to take effect from and after its passage.

APPROVED February 13th, 1871.

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## AN ACT

Fixing the time for the meeting of the Legislative  
Assèmbly for the Territory.

*Be it enacted by the Legislative Assembly of the Territory of  
Arizona :*

SECTION 1. The Legislative Assembly shall meet biennially at the capitol of the Territory, on the first Monday in January, A. D. 1873, and every two years thereafter.

SEC. 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 13th, 1871.

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## AN ACT

To divorce Mary H. Nash from the bonds of matrimony heretofore contracted with James H. Nash.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That Mary H. Nash, now residing in the county of Yavapai, in the Territory of Arizona, be and she hereby is divorced from her husband, James H. Nash ; that the bonds of matrimony heretofore existing between them be and the same hereby are dissolved ; that she be and hereby is forever released therefrom, and that said marriage heretofore contracted and existing between her and her said husband be and hereby is annulled ; and that the said Mary H. Nash have the right to marry again.

SEC. 2. This act shall take effect and be in force from and after its passage.

APPROVED February 13th, 1871.

## AN ACT

To amend section three of an act entitled An act creating the office of Public Administrator, and providing for the government of the same, approved October 5th, A. D. 1867.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section three of said act be so amended as to read as follows:

§ 3. The Public Administrator of each county shall have the right, and it is hereby made his duty, to administer according to law upon the estates of any person who died intestate in, or was at the time of his or her death a resident of, the county, or had assets therein not administered, or in some other county, or of a deceased stranger, or of a deceased testate, when no executor is appointed, or if appointed fails to qualify, unless administered upon within one month after death of testate, or within the time provided by law for an intestate, by a relative, by blood or marriage, within the fourth degree of consanguinity or legal relation, or as it is now provided by law.

SEC. 2. Whenever any stranger or person without known heirs shall die intestate in house or premises of any other person, it shall be the duty of such person, or any one knowing thereof, to give immediate notice to the Public Administrator, and in default thereof he shall be liable to any damage that may be sustained thereby, to be recovered by the Public Administrator or any party interested.

SEC. 3. He shall make a perfect inventory of all such estate and account for the same as near as circumstances will permit, according to the law prescribing the duties of administration, subject to the control and direction of the Probate Court.

SEC. 4. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED February 13th, 1871.

## AN ACT

## Providing a Salary for the Probate Judges.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. The Probate Judge of each county of the Territory, except the counties of Mohave and Pah-Ute, shall receive an annual salary of three hundred dollars. The Probate Judge of the county of Mohave shall receive an annual salary of one hundred and fifty dollars; said salaries to be paid quarterly out of the general fund of the county treasury.

SEC. 2. The Board of Supervisors of each county, upon application in writing from such Probate Judge, and upon due proof of service rendered, shall issue their warrant, upon the County Treasurer of their respective counties, for the amount due to such Probate Judge.

SEC. 3. The County Treasurer upon whom such warrant is drawn shall, upon presentation of such warrant, pay out of any moneys in his hand, belonging to the general fund of the county treasury, the amount named in such warrant.

SEC. 4. The Probate Judge of each county shall be, and he is hereby empowered to act as Clerk of the Probate Court, in his county, and receive therefor all fees allowed by law to the County Recorder, as *ex officio* Clerk of said Court, and the County Recorder of each county is hereby directed to deliver to the said Probate Judge the seal of said court and all records and papers belonging to the said Probate Court.

SEC. 5. The Probate Judge of each county shall give bond to the Territory in the penal sum of not less than one thousand dollars, nor more than three thousand dollars, for the faithful performance of the duties of his office. The bond to be approved by the Board of Supervisors of the county in which said Probate Judge holds his office.

SEC. 6. It shall be the duty of the Board of Supervisors to see that the records of the Probate Court are kept in a proper manner.

SEC. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.



SEC. 8. This act shall take effect and be in force from and after its passage.

APPROVED February 13th, 1871.

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## AN ACT

To change the name of Francisco Luges to John Solomon Warner, and for other purposes.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That the name of Francisco Luges be and the same is hereby changed to John Solomon Warner.

SEC. 2. *And be it further enacted,* That it shall be lawful for Solomon Warner to adopt the said John Solomon Warner, mentioned in the first section of this act, and make him, the said John Solomon Warner, his heir at law, and to that end the said Solomon Warner shall, within thirty days after the passage of this act, file in the office of the Probate Judge of Pima county, his statement in writing declaratory of his intention to adopt the said John Solomon Warner, under the provisions of this act, and an acknowledgment of the said John Solomon Warner as his heir at law and legal representative, which said declaratory statement and acknowledgment shall be made a permanent record, and the said John Solomon Warner from that time hence shall be the lawful heir and legal representative, in all respects as though born to him in lawful wedlock.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 14th, 1871.

## AN ACT

To amend an act entitled an act "granting the right to William D. Bradshaw and his associates to maintain and keep a ferry across the Colorado river."

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That section one of said act be amended to read as follows :

§ 1. The exclusive right to keep and operate a ferry across the waters of the Colorado river, at any and every point between what is known as Mineral City and a point five miles above said Mineral City, in this Territory, is hereby granted to William D. Bradshaw, and his associates and successors, for the term of twenty years, with the privileges and subject to the condition prescribed by this act.

SEC. 2. That section four of said act be amended to read as follows :

§ 4. Should the said William D. Bradshaw and his associates and successors neglect or refuse to keep said ferry in the condition prescribed by this act, or charge, demand or collect, or attempt to charge, demand or collect, an amount of toll in excess of the rates prescribed by this act, complaint may be made before any court of competent jurisdiction, in the precinct or county in which said ferry may be situated, by any person making affidavit to the same, when it shall be the duty of such Judge to summon said William D. Bradshaw, and his associates and successors, or agent, to appear before him within five days after such complaint shall be made ; and if it shall appear, after due investigation, that such neglect or refusal to comply with the provisions of this act is without good and sufficient cause, then William D. Bradshaw, and his associates or successors, shall be liable for all damages resulting therefrom, and forfeit all rights and privileges conferred by this act.

SEC. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 14th, 1871.

## AN ACT

## Creating the County of Maricopa.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. All that portion of the Territory of Arizona, now embraced within the present boundaries of Yavapai county, and bounded as follows, to wit: Commencing at the point where the San Carlos river crosses the parallel of thirty-four degrees of north latitude, and running thence to a point on the Rio Verde, thirty miles above its mouth, where it empties into Salt river; thence to the White Tanks, and thence due west to the eastern boundary of Yuma county; thence south along said line to the Gila river; thence up said river, following the principal channel thereof, to the mouth of the San Carlos river, where the same empties into the Gila; thence up the said San Carlos river to the point of beginning; be and the same is hereby created into a county to be known and designated as the county of Maricopa.

SEC. 2. The Governor of this Territory is hereby authorized and empowered to appoint all such county officers in the county of Maricopa, as may be necessary to effect a complete county organization, under the laws of this Territory, and the Probate Judge so appointed may qualify before any officer in the county of Yavapai, or Pima, authorized to administer oaths; and all other county officers appointed as aforesaid shall qualify before the Probate Judge of Maricopa county; and the bonds of all county officers appointed in said county, where by law bonds are required, shall be subject to his approval.

SEC. 3. All officers except the Probate Judge appointed in the said county of Maricopa as hereinbefore provided shall hold their respective offices until their successors shall be duly elected and qualified; and the Probate Judge, appointed as aforesaid, shall hold his office until his successor shall be duly appointed and qualified under the general laws of this Territory.

SEC. 4. There shall be a special election held in the county of Maricopa, on the first Monday of May, A. D. 1871, at which special election all county and township officers, except Probate Judge, shall be elected, and all officers elected at said

special election shall qualify within twenty days after their election, by taking the oaths and filing the bonds required by law of such officers, and shall hold their respective offices until after the next general election, and until their successors are elected and qualified.

SEC. 5. All acts and parts of act relating to county and township officers and their duties, now in force in this Territory, and not in conflict with the provisions of this act, are hereby extended to and made applicable to the county of Maricopa.

SEC. 6. The county seat of Maricopa county is hereby located at the town of Phoenix, near Salt river, subject to removal as hereinafter provided.

SEC. 7. At the special election hereinbefore provided for, any voter may designate upon his ballot a place for the county seat of Maricopa county, and all such votes shall be received, counted and returned as other votes, and the place receiving the highest number of votes shall immediately become the county seat of Maricopa county.

SEC. 8. No indebtedness now existing against Yavapai county by reason of its county organization, shall be considered as indebtedness against the said county of Maricopa, nor shall any credits, demands, public buildings or other property of any kind, now owned by or belonging to said Yavapai county, be claimed or allowed in whole or part as belonging to said county of Maricopa.

SEC. 9. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 10. This act shall be in force and take effect from and after its passage.

APPROVED February 14th, 1871.

## AN ACT

## Concerning the collection of taxes in the Territory of Arizona.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That any person or persons who shall exercise or attempt to exercise any of the powers, duties or functions of the office of Assessor or Collector of Taxes in any of the counties of the Territory of Arizona, within its boundaries as fixed by law (except the lawfully qualified Assessor and Collector of Taxes for such counties, whose duty it is to assess and collect the taxes thereof), shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any court in said Territory of competent jurisdiction, shall be fined in any sum not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail for a period of not more than one year, or by both such fine and imprisonment, in the discretion of the court.

SEC. 2. Any person or persons who shall aid, assist, counsel or advise such person or persons to assess or collect, or attempt to assess or collect, taxes in any of the counties of this Territory, or within the boundaries of any such counties as fixed by law, or shall in any way connive at, countenance or abet such person or persons to assess or collect taxes in any of said counties, or the attempted assessment or collection of taxes aforesaid, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be fined in any sum not less than three hundred dollars nor more than one thousand dollars, and be imprisoned until the fine is paid.

SEC. 3. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect from and after its passage.

APPROVED February 14th, 1871.

## AN ACT

Concerning the payment of the District Attorney of Yuma county and the Associate Counsel for prosecuting tax suits.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. There is hereby appropriated so much of the taxes as may now be due the Territory of Arizona heretofore assessed, and uncollected by said Territory, upon that portion of Arizona City known as the disputed territory, and claimed both by the State of California and the Territory of Arizona, as being in their respective jurisdiction ; to pay for the services of the District Attorney of Yuma county and his associate counsel in enforcing the collection of said taxes, by suits now pending and hereafter to be commenced, and in settling the question before the courts, as to the title and jurisdiction of Arizona Territory to said disputed territory or tract of land at Arizona City aforesaid.

SEC. 2. That when said taxes shall be collected and paid over to the Treasurer of said county of Yuma, said Treasurer shall pay the same over to said District Attorney and associate counsel, and take their receipts therefor, which shall be a sufficient voucher for the Territorial Treasurer.

*Provided* that no other compensation shall be paid to said District Attorney or associate counsel by said Territory.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 16th, 1871.

## AN ACT

## Relating to town sites.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. In all cases in which any of the public land of the United States in the Territory of Arizona, has been or shall hereafter be selected and occupied as a town site, if the inhabitants of such town shall be at the time incorporated, it shall be the duty of the corporate authorities of such town, or if not incorporated then of the Probate Judge of the county in which such town site is situated, whenever called on by any of the occupants of such town, and the money for the entrance of such town site, furnished to enter such town site under the act of Congress in such case made and provided.

SEC. 2. When a town site is entered under the above recited act of Congress by the corporate authorities of any incorporated town, deeds shall be made by the Mayor or other chief officer of such town for the time being, and said deed or deeds shall be attested by the City Clerk or Registrar, and shall be signed by the Mayor or other chief officer, under the corporate seal of said city, attested by said City Clerk or Registrar, if said city shall have a corporate seal, and if it shall have no seal, under the private seal of said Mayor or other chief officer, attested by the City Clerk or Registrar as aforesaid.

SEC. 3. In all cases where town sites have been, or shall hereafter be, entered in this Territory, by the Probate Judge of the county for the use of the inhabitants thereof, as prescribed by law, it shall be the duty of such Judge so entering such site to convey the same to the occupants and inhabitants thereof, according to their respective interests in the manner hereinafter prescribed.

SEC. 4. At any time after the entry of such town site, the Probate Judge of the county in which such town is situated may appoint three Commissioners, who shall not be residents of such town, or the owners of any interest therein, and it shall be the duty of said Commissioners, if the town has not been surveyed, to cause an actual survey to be made conforming as near as may be to the original plan of the town, and cause a plat thereof to be made, designating on such plat the lots or

squares on which improvements are standing, with the names of the owner, or owners thereof, together with the value of such improvements. They shall also make out a list of all owners or occupants of lots, or parts, in said town site, including therein all persons who shall own, or be possessed, either actually or constructively, of any part or lot situated in said town site.

SEC. 5. When the plat and list as above prescribed has been completed, the said Commissioners shall cause to be published in some newspaper, published in the county in which said town is situated, if there be one, or, if there be none, then in some newspaper published in an adjoining county, a notice to all persons concerned or interested in such town site, that, on a designated day, the said Commissioners will proceed to set off, to the persons entitled to the same according to their respective interests, the lots, squares or grounds to which each of the occupants thereof shall be entitled. Such publication shall be made at least thirty days prior to the day set apart by such Commissioners to make such division.

SEC. 6. After such publication shall have been duly made, the Commissioners shall proceed, on the day designated in such publication, to set apart, to the person entitled to receive the same, the lots, squares or grounds, to which each shall be entitled according to their respective interests, including in the portions set apart to each person or company of persons the improvements belonging to such person or company.

SEC. 7. After setting apart such lots or grounds and the valuation of the same as hereinbefore provided for, the said Commissioners shall proceed to levy a tax upon the lots, according to their value, sufficient to raise a fund to reimburse the parties who may have advanced the money to enter said site, the sum or sums paid by them in securing the title to such town site, together with all the expenses accruing in perfecting the same, including the surveying and platting and fees of the Commissioners, and the expenses of the Probate Judge, for their respective services, and all other necessary expenses connected with the proceedings.

SEC. 8. Such Commissioners shall make due return of their proceedings to the Probate Judge, within ten days after the completion of their duties under this act, and shall, with such return, file all papers, plats, valuations and assessments connected with such proceedings.



SEC. 9. The said Probate Judge shall then proceed to collect the taxes, levied as aforesaid, and he shall make deeds to the lots so set apart to the various parties entitled to the same, but no deed shall be made to any person, until such person shall have first fully paid all the tax or assessment so levied against him, and in case any person shall neglect or refuse to pay such tax or assessment for three months, then the Probate Judge may proceed to offer such lots for sale to the highest bidder, first giving such notice as may be required in case of execution against the lands and tenements of a debtor in the District Court.

SEC. 10. The Probate Judge shall receive a reasonable sum for his services and his expenses. Deeds made by the Probate Judge, in pursuance of this act, shall be acknowledged by him before some officer duly authorized by law to take such acknowledgment, and may be recorded as other deeds.

SEC. 11. All persons who select and lay out a town site, and their assigns, shall be deemed occupants thereof, and the lots embraced therein, within the meaning of the above mentioned act of Congress, and deeds shall be made accordingly.

SEC. 12. All moneys collected under the provisions of this act, and not paid out for expenses, as therein provided, but remaining as surplus, shall be expended for the benefit of such town, in such manner as the corporate authorities shall direct, if the town be incorporated, and if not incorporated, then as shall be directed by a meeting of the citizens of said town, held after two weeks' notice.

APPROVED February 16th, 1871.

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## AN ACT

Fixing the time for holding the General Election for the Territory.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. There shall be held throughout the Territory, upon the Tuesday after the first Monday of November, A. D.

1872, and every two years thereafter, an election for Members of the Legislative Assembly, and such other officers as may be required by law to be chosen at such election, to be called the General Election.

SEC. 3. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 16th, 1871.

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## AN ACT

### Concerning Divorces.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. The several District Courts of this Territory, within their respective districts, shall have exclusive jurisdiction to grant divorce from bed and board and from the bonds of matrimony.

SEC. 2. No person shall be allowed to apply for a divorce under the provisions of this act who has not been a resident of this Territory for a period of six months immediately preceding such application.

SEC. 3. Divorces from bed and board or from the bonds of matrimony may be granted :

*First.* For impotency existing at the time of marriage.

*Second.* When the female at the time of the alleged marriage was under the age of fourteen years, and the alleged marriage was without the consent of her parents, or guardian, or other person having the legal custody or charge of her person, and when such marriage was not voluntarily ratified on her part after she had attained the age of fourteen years.

*Third.* For an act of adultery by either of the parties; but no divorce shall be granted upon the application of the party guilty of the act of adultery complained of; nor if it shall

appear to the court that the adultery complained of was by collusion of the parties; nor when it shall appear that the parties have voluntarily lived and cohabited together as husband and wife after knowledge of the adultery complained of.

*Fourth.* For extreme cruelty in either party by inflicting upon the other grievous, mental or bodily suffering, or for habitual intemperance, or for willful desertion by either party, for the period of one year, or for willful neglect on the part of the husband for a like period of time to provide for his wife the necessaries and comforts of life, having the ability to provide the same, or failing so to do by reason of his idleness, profligacy or dissipation.

*Fifth.* When the consent of either party to the marriage was obtained by force or fraud, upon the application of the injured party.

*Sixth.* In case of the conviction of either party of a felony after the marriage.

*Seventh.* And whereas, in the developments of future events, cases may be presented before the courts falling substantially within the limits of the law, as hereinbefore stated, yet not within its terms, it is enacted, that whenever the Judge who hears a cause for divorce deems the case to be within the reason of the law, within the general mischief the law is intended to remedy, or within what it may be presumed would have been provided against, by the Legislature establishing the foregoing causes of divorce had it foreseen the specific case and found language to meet it without including cases not within the same reason, he shall grant the divorce.

SEC. 4. No divorce on the ground of impotency existing at the time of the marriage shall be allowed, except on application of the party injured, nor unless such application be made within two years after such marriage.

SEC. 5. When a divorce is granted on the ground of adultery on the part of the wife, the legitimacy of any children born or begotten of her, before the act of adultery complained of, shall not be affected by the divorce.

SEC. 6. In an action for a divorce, the court may, during the pendency of the action, or at the final hearing thereof, or afterwards, make such order for the support of the wife, and the care, custody, maintenance and education of the children of the marriage, as may be just, and may at any time thereafter annul, vary or modify such order as the interests and welfare of the children may require.

SEC. 7. No divorce shall be granted in any action by the default of the defendant, but in all cases the court shall require proof of the facts alleged as the grounds for the divorce, which proofs shall be in writing, and subscribed and sworn to by the witnesses; nor shall it be lawful for any court to grant a divorce upon any finding of facts by a referee, but only on the legal testimony taken in the case. Either party may be a witness on the trial of such action, but no divorce shall be granted on the testimony of a party to the action, unless the same be corroborated by other evidence.

SEC. 8. In every action for a divorce the complaint shall be verified.

SEC. 9. All acts or parts of acts so far as they conflict with the provisions of this act are hereby repealed.

SEC. 10. This act shall be in force from and after its passage.

APPROVED February 16th, 1871.

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## AN ACT

To amend section six of chapter twelve, Howell Code, "Of Jails and Prisons, and the confinement of Persons therein."

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section six of said chapter be amended to read as follows:

§ 6. Any person detained for examination or trial upon any criminal charge, or arrested upon any charge, and committed to or in the custody of any Sheriff, Constable or police officer, shall (if bail be not given agreeably to law) be detained and kept in the jail of the proper county, or in any secure place, lock-up or station-house, prescribed by any city, incorporated village, village or town in this Territory, for the reception of such persons charged with crimes; *provided*, that the said place of security, lock-up or station-house (as the case may be) be authorized by the Board of Supervisors of such county, and that the persons so confined and imprisoned shall be considered, to all

intents and purposes, as being confined in the county jail, unless otherwise directed by the magistrate, Judge or court; and any Sheriff, Constable, police or other officer, having charge of any such person as aforesaid, may detain and keep him or her in any such jail, lock-up, station-house, or other secure place, until required to be taken therefrom for the purpose of such examination, trial or sentence; *provided further*, that in all cases before a Justice of the Peace, in any city, incorporated village, village or town in this Territory, that sentence may be served out and expire in such jail, lock-up, station-house, or other secure place, aforesaid, in the discretion of such Justice of the Peace; and *provided further*, that said person aforesaid shall be employed as provided for by law.

SEC. 2. All acts or parts of acts in so far as they conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 17th, 1871.

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## AN ACT

To amend section fourteen of chapter two, Howell Code, "Of the formation and rights of Counties."

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section fourteen of chapter two, Howell Code, "Of the formation and rights of Counties;" "Of legal proceedings in favor of, and against Counties," be amended to read as follows:

§ 14. In all suits and proceedings, the name in which the county shall sue or be sued shall be, The County of (name the county), except in cases where other county officers shall be authorized by law to sue in their name of office, for the benefit of the county; and that in all actions commenced by a county before any court in this Territory, where bonds are required in any action, no bonds shall be required of such county.

SEC. 2. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 17th, 1871.

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## AN ACT

### Providing for Insane Persons.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. The Probate Judge of any county in this Territory, upon the application under oath, setting forth that a person by reason of insanity is dangerous, being at large, shall cause such person to be brought before him for examination, and shall cause to be summoned to appear at such examination two or more witnesses acquainted with the accused, at the time of the alleged insanity, who shall be examined on oath as to the conversation, manners and general conduct of the accused, upon which such charge of insanity is based, and he shall also cause to appear before him one or more graduates of medicine, and reputable practitioners thereof, who shall be present at such examination, and who, upon the hearing of the facts detailed by other witnesses, and a personal examination of the accused, shall set forth in a written statement to be made upon oath : First, his or their judgment as to the insanity of the party charged ; second, whether it be dangerous to the accused, or to the person or property of others, by reason of said insanity, that said accused go at large ; third, whether such insanity is, in his or their opinion, likely to prove permanent, or only temporary ; and upon such hearing and statements as aforesaid, if the proofs shall satisfy the Judge before whom such hearing is had that such party is insane, and that by reason of his or her insanity he or she be in danger, if at liberty, of injuring himself or herself, or the person or property of others, he shall, by an order, entered of record in a book kept for that purpose, direct the confinement of such person.

SEC. 2. The Board of Supervisors of each county shall provide for the confinement of all insane persons in their respective counties, either in the county jail, or in such other manner and place as shall in their judgment be best for the safety of said insane person and of the community, and shall draw their warrants in payment of all proper costs and charges therefor, upon the county treasury; and the County Treasurer shall pay such warrants out of the general fund as other warrants are paid from said fund; *provided*, that said insane person shall have no money or property from which said costs and charges may be paid according to the provisions of this act.

SEC. 3. The Probate Judge, at the examination mentioned in section one of this act, or at any time thereafter, may cause inquiry to be made into the ability of any insane person committed by him to bear the charges and expenses of his examination, commitment and maintenance while in custody; and in any case where the insane person is able, by the possession of money or property, to pay such charges, or any portion of them, such Judge shall appoint a guardian for such insane person, who, upon executing such bond as may be required by such Judge, shall be authorized to take into his possession and control all the property, real and personal, of such insane person, and may, upon application to the Probate Judge of the proper county, obtain an order for the sale of such property, whether the same be real or personal, in like manner as such sales are ordered by said courts in cases of deceased persons; *provided*, that, if such insane person have a family in this Territory, no such order of sale shall be had of any property not subject to execution and forced sale. The guardian appointed as hereinbefore mentioned shall pay the costs of the examination, and the expenses of the maintenance of said insane person, from the money and the proceeds of the sale of the property of said insane person, and shall, from time to time, make a report of the expenditures in this behalf to the Probate Judge, at his order, until all is expended; or should said insane person be discharged, as provided for in section three, then the said guardian shall make final settlement before the Probate Judge, and shall deliver to the person so discharged all the money and property remaining in his hands as guardian of said insane person.

SEC. 4. Upon proof to his satisfaction being made that any person confined for insanity is no longer insane, or dangerous to himself, herself, or any other person, the Probate Judge

may, by order, direct that such insane person be set at liberty, and, upon receipt of a copy of said order, the Sheriff shall set such person at liberty.

SEC. 5. The Sheriff shall serve all processes in the above-mentioned proceedings, and shall receive the same fees as for similar services in the District Court.

SEC. 6. This act shall take effect and be in force from and after its passage.

APPROVED February 17th, 1871.

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## AN ACT

To authorize the compilation and publication of information to promote Immigration.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That A. P. K. Safford, Charles H. Brinley and John G. Campbell are hereby constituted and appointed a Board of Commissioners to prepare and cause to be published reliable information upon the pastoral, mineral, agricultural and other resources of the Territory; also the cost and facilities of coming to the Territory by the different railroads, stage routes and emigrant roads, and such other information as they may consider of value to persons desiring to immigrate to this Territory.

SEC. 2. It shall be the duty of said Commissioners to prepare the information aforesaid as soon as practicable, and they are hereby authorized to contract for the publication of two thousand copies in pamphlet form, upon such reasonable terms as they may deem just and right; *provided*, that the price so agreed upon shall not exceed the sum of three hundred dollars.

SEC. 3. Upon the completion of said work to the satisfaction of the Commissioners, they shall certify to the Territorial Auditor the amount due for said work, and to whom. And



the Territorial Auditor shall draw his warrant for the amount in favor of the person to whom the same is due, as shall appear by the certificate of said Commissioners, and the Territorial Treasurer is hereby authorized and directed to pay said warrant out of any money in the treasury not otherwise appropriated.

SEC. 4. It shall be the duty of the Board of Commissioners to distribute said pamphlets in such a manner as will give them the widest and most useful circulation.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED February 17th, 1871.

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## AN ACT

To establish the terms of the Supreme Court.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That the session of the Supreme Court for the year one thousand eight hundred and seventy-two shall be begun and held at the seat of government on the second Monday in January, instead of the first Wednesday after the meeting of the Legislature, as now required by law, and that all process and proceeding now pending in, or returnable to, said court, on the first Wednesday after the meeting of the Legislature, shall be returnable to, and proceeded with, at the term of said court hereby established, in a like manner, and with the same force and effect, as the same would have been on the first Wednesday after the meeting of the Legislature.

SEC. 2. That the session of the Supreme Court shall hereafter in each and every year be held at the seat of government, commencing on the second Monday in January in each year.

SEC. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 17th, 1871.

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## AN ACT

To establish public schools in the Territory of Arizona.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. A tax of ten cents upon each one hundred dollars value of taxable property is hereby levied and directed to be collected and paid into the Territorial treasury as a special fund for school purposes, to be disbursed as hereinafter provided; said tax to be levied and collected at the same time and in the same manner as other Territorial revenues.

SEC. 2. The Board of Supervisors of each county shall annually, at the time of levying other county taxes, levy a county school tax, not to exceed fifty cents on each one hundred dollars valuation of taxable property, which tax shall be added to the county tax, and collected in the same manner, and paid into the county treasury as a special fund, to be drawn as hereinafter provided; and should said County Supervisors fail or neglect to levy said tax as required, it shall be the duty of the County Recorder to add such tax as the Territorial Superintendent of Public Instruction may deem sufficient, not to exceed the sum of fifty cents on each one hundred dollars valuation of taxable property in the county, to the assessment roll, to be collected as specified in this section.

SEC. 3. The Secretary of the Territory, the Superintendent of Public Instruction and the Territorial Treasurer shall constitute a Territorial Board of Education, of which the Superintendent shall be President and the Secretary of the Territory shall be Secretary.

SEC. 4. It shall be the duty of the Board of Education to hold at least two sessions annually, for the purpose of devising

plans for the improvement and management of the public school funds and for the better organization of the public schools of the Territory; and it shall be the duty of the President of the Board to call such other meetings at such times as he may deem advisable and necessary. A full record of the proceedings of the Board shall be kept by the Secretary, and shall be embodied in the annual report of the Superintendent of Public Instruction.

SEC. 5. The Governor of the Territory is hereby made *ex officio* Superintendent of Public Instruction, who shall hold his office until his successor is appointed and qualified and enter upon his duties as Superintendent.

SEC. 6. It shall be the duty of the Superintendent of Public Instruction, subject to the supervision of the Territorial Board of Education, to apportion to the several counties, on the 30th day of June, the 30th day of September, the 31st day of December and the 31st day of March, of each year, the amount of money to the credit of the school fund to which each county shall be entitled under the provisions of this act, in proportion to the number of children attending school in each of said counties; *provided*, the Territorial Board of Education shall make the first apportionment upon the basis of the number of children between the ages of six and twenty-one years in each of the said counties.

SEC. 7. It shall be the duty of the Superintendent of Public Instruction to make an annual report on or before the 1st day of January of each year to the Territorial Board of Education, who shall cause the same to be published, and shall transmit a copy thereof to the Legislature. Said report shall contain a full statement of the condition and amount of all funds and property appropriated to the purpose of education, the number and grade of schools in each county, the number of children in each county between the ages of six and twenty-one years, the number of such attending public schools, the number attending private schools, the number not attending any schools, the amount of public school moneys appropriated to each county, the amount of money raised by county taxation, district taxation or otherwise, a statement of plans for the management and improvement of public schools, and such other information relative to the educational interests of the Territory as he may deem important.

SEC. 8. The Superintendent of Public Instruction shall prescribe suitable forms and regulations for making all reports,

and for conducting all necessary proceedings under this act, and shall cause the same, with such instructions as he may deem necessary and proper for the organization and government of schools, to be transmitted to the local officers, who shall be governed in accordance therewith. He shall prepare a convenient form of school register, for the purpose of securing more accurate returns from teachers of public schools, and shall furnish each County Superintendent with a number sufficient to supply at least one copy thereof to each district or school of such county. He shall prepare pamphlet copies of the school law, and shall transmit a number of the same to each County Superintendent, sufficient to supply each and every School Trustee, School Marshal, School Teacher and Supervisor with at least one copy of the same.

SEC. 9. It shall be the duty of the Superintendent of Public Instruction to visit each county in the Territory once in each year, for the purpose of visiting schools, of consulting County Superintendents, of lecturing and addressing public assemblages on subjects pertaining to public schools; and the Superintendent shall be allowed his actual traveling expenses incurred, not to exceed the sum of five hundred dollars annually, to be paid out of the Territorial School Fund.

SEC. 10. It shall be the duty of the Superintendent of Public Instruction to make and furnish to the Board of Supervisors of the several counties of the Territory, on or before the first day of April in each year, a statement showing the probable expense for maintaining schools the following year, the probable amount that will be derived from the Territorial treasury, and the necessary amount to be raised by county taxation. And it shall be the duty of the Board of Supervisors to establish such rate of county taxation, for school purposes, not exceeding fifty cents on each one hundred dollars of taxable property in each of said counties, as will secure the amount estimated by the said Superintendent.

SEC. 11. The Superintendent of Public Instruction, at the expiration of his term of office, shall deliver over to his successor all property, books, documents, records, reports and other papers belonging to his office, or which may have been received by him for the use of his office.

SEC. 12. It shall be the duty of the Territorial Treasurer to receive and hold, as a special fund, all public school moneys paid into the Territorial treasury, and pay them over only on

the warrant of the Territorial Auditor, issued upon the order of the Territorial Board of Education, and countersigned by the Superintendent of Public Instruction, in favor of the County Treasurer, which orders, duly indorsed by the County Treasurer, shall be valid vouchers in the hands of the Territorial Treasurer for the disbursement of said moneys.

SEC. 13. All school moneys due each county in the Territory shall be paid over by the Territorial Treasurer to the County Treasurers, as follows: on the 30th day of June, and on the 30th of September; on the 31st of December, and on the 31st of March of each year, or as soon thereafter as the County Treasurer may apply for the same, upon the warrant of the Territorial Auditor, drawn in conformity with the apportionment of the Superintendent of Public Instruction, as provided in section 6 of this act.

SEC. 14. It shall be the duty of the Treasurer of each county: first, to receive and hold, as a special fund, all public school moneys, whether received by him from the Territorial Treasurer, or raised by the county or district for the benefit of public schools, or from any other source; and to keep a separate account thereof, and of their disbursement; second, on receiving any public school moneys subject to distribution, to notify the Superintendent of Public Schools of the amount thereof; third, to pay over, on the warrants of the County Superintendent, duly indorsed by the person entitled to receive the same, any or all of said moneys; fourth, on or before the first day of December, annually, to make a full report to the Superintendent of Public Instruction of the public school moneys received into the county treasury within the year ending November 30th next previous thereto, with a particular statement of the disbursement of said school moneys (and of any amount of said school moneys) which may remain in his hands for distribution at the close of said year, designating whether of Territorial or of county school fund; and in case of the failure or neglect of said County Treasurer to make such report, he shall forfeit, for the benefit of the county school fund, the sum of one hundred dollars from his official compensation; and it is hereby made the duty of the Board of Supervisors, on notice from the Superintendent of Public Instruction, of such failure or neglect on the part of any County Treasurer, to deduct said one hundred dollars from his compensation, and place said amount to the credit of the county school fund.

SEC. 15. The Probate Judge of each county in this Territory is hereby made *ex officio* County Superintendent of Public

Schools for his county, without any compensation, except his actual traveling expenses annually, visiting the school of his county, which expense shall not exceed one hundred dollars annually.

SEC. 16. It shall be the duty of the County Superintendent of Public Schools, upon receiving notice from the County Treasurer, as provided in this act, to apportion the public school moneys in the county treasury among the several school districts in his county, in proportion to the number of children between the ages of six and twenty-one years, as returned by the School Trustees and School Census Marshals, and to forthwith notify the County Treasurer and the School Trustees in writing of such apportionment; *provided*, that after a school has been kept for a term of three months, the basis for apportionment shall be the number that attends school, adopting as a basis the average attendance. He shall have power and it shall be his duty to draw his warrant on the County Treasurer in favor of, and to deliver the same to, the person entitled to receive the same; *provided* no such warrant shall be drawn in favor of any school district, until full and correct returns have been made to him by the same as required by law, and a certificate of the Board of Trustees given, showing for what purpose, in accordance with this act, the money is required; and *provided, further*, that no such warrant shall be drawn in favor of any school district, unless there is cash in the treasury at the time, to the credit of said school district.

SEC. 17. The County Superintendent shall have power, and it shall be his duty, in accordance with the provisions of this act, and the instructions of the Superintendent of Public Instruction: First. To visit each school in his county once in each year, exercise a general supervision over the interests of public schools in his county, and give the School Trustees, Marshals and Teachers such aid and counsel as may be important to the prosperity of the schools. Second. To distribute promptly such blanks, reports, forms, laws and instructions as shall be received by him from the Superintendent of Public Instruction, for the use of School Trustees, Marshals and Teachers, and other officers entitled to receive the same. Third. To keep on file in his office the reports of the School Trustees, Marshals and Teachers received by him, and to record all official acts in a book, to be provided for that purpose, and at the close of his official term of office to deliver over to his successor such records, and all documents, books and papers,

belonging to his office, and to take a receipt for the same, which shall be filed in the office of the County Treasurer. Fourth. To make a full report in writing, annually, on or before the fifteenth day of December, for the year next previous thereto, to the Superintendent of Public Instruction, such report to include an abstract of all the various annual reports of the School Trustees, Marshals and Teachers, by law required to be made to the County Superintendent for the preceding year. Fifth. To appoint School Trustees and Marshals in all school districts in which the qualified voters shall fail to elect said School Trustees and Marshals, and to fill by appointment all vacancies which may occur by death or otherwise, when the voters of the district fail to comply with the provisions of the law.

SEC. 18. If the County Superintendent fails to make a full and correct report to the Superintendent of Public Instruction of all statements required to be made by law, he shall forfeit the sum of ten dollars from his salary, and the Board of Supervisors are hereby authorized and required to deduct therefrom the sum aforesaid, upon information from the Superintendent of Public Instruction that such returns have not been made.

SEC. 19. In each school district of the Territory there shall be elected, on the first Monday in May, 1871, three Public School Trustees by the qualified voters of the district, at a school district meeting, to be held at the usual place for holding public meetings, and it shall be the duty of the County School Superintendent to give at least ten days' notice of such meeting, by advertising in a newspaper, or by posting a written notice in three public places in such district, of the time and place of such meeting. The said trustees elected at said school meeting shall hold their respective offices until the next general election, and until their successors are elected and qualified; and thereafter the said trustees shall be elected at the general election held for the election of county officers. Said Trustees are hereby authorized to administer to each other the oath or affirmation of office, and to forward their certificate of election from the Clerk of said meeting, with the oath or affirmation indorsed thereon, to the County Superintendent of Public Schools.

SEC. 20. It shall be the duty of the Trustees, any two of whom shall constitute a quorum for the transaction of business, to meet as soon as practicable, after taking the oath of office, at such place as may be most convenient in the district,

and to organize by appointing one of their number Clerk of the Board, who shall preside at the official meetings of the Trustees, and record their proceedings in a book to be provided for that purpose, together with the minutes of the proceedings of the annual school meetings, held in the district, by the qualified voters thereof, which shall be public record, and all proceedings when so recorded shall be signed by said Clerk. They shall also appoint one of their number as District Treasurer. The Trustees shall meet at least once a quarter, and as much oftener as they may deem advisable.

SEC. 21. The District Board of Trustees shall constitute a body corporate, and shall be intrusted with the care and custody of all school property within said district, and they shall have power to convey by deed, duly executed and delivered, all the estate or interest of their district in any school-house or site directed to be sold by the vote of the district, and all conveyances of real estate which may be made to said Board shall be made in their corporate name and to their successors in office; said Board of Trustees shall have further power, subject to the approval of the Board of Supervisors, to purchase, receive, hold and convey real or personal property for school purposes, to build, purchase, hire and repair school-houses, and to furnish the same with necessary furniture, and to fix the location of school-houses.

SEC. 22. No Trustee shall be pecuniarily interested in any contract made by the Board of Trustees of which he is a member, and any contract made in violation of this section shall be null and void.

SEC. 23. It shall be the duty of the Trustees in each district to take, or cause to be taken, by a School Marshal, to be appointed by them in the month of May of each year, an enumeration of all the children between the ages of six and twenty-one years within such district, and return a certified copy thereof, under oath, to the County Superintendent of Public Schools before the 1st day of June of each year. The Trustees shall also report the number of schools, specifying the different grades, the number of teachers, male and female; the number of children, male and female, who have attended school; the duration of term of school; the compensation of teachers, male and female; the number and condition of school-houses and furniture, and the estimated value thereof; the amount expended in erecting school-houses, the amount of money derived from district taxation or subscription, and such other



statistics as the Superintendent of Public Instruction may require.

SEC. 24. It shall be the duty of the Board of Trustees to provide school-houses, either by purchase or rent, as shall be necessary for the accommodation of schools, subject to the approval of the Board of Supervisors as hereinafter provided. They may provide books for the indigent children and record books for the district, and pay for the same out of the county school moneys belonging to their district. They may suspend or expel from school within their district, with the advice of the teacher, any pupil who will not submit to the reasonable and ordinary rules of order and discipline therein; they may also apportion the school funds among the several schools within their district, in proportion to the average number of pupils attending school, and they shall at the close of their official term deliver over to their successors in office all books and records in their hands as such Trustees, and take a receipt for the same, and file it with the County Superintendent.

SEC. 25. When the Territorial and county money to which any district is entitled is not sufficient to build or rent suitable buildings, and to pay for keeping a school open in such district for at least three months in each year, it is hereby made the duty of the Trustees of each district to levy a direct tax upon the taxable property in such district, sufficient to raise an amount, which, together with the Territorial and county money to which such district is entitled, will keep a school open three months in each year, and the Board of Trustees of any school district, when in their judgment it is advisable, may call an election and submit to the qualified voters of the district the question whether a tax shall be levied to keep a school open a longer period than the ordinary funds will allow, or for building an additional school-house or houses, or for all of these purposes. Such election shall be called by posting notices in three of the most public places in the district for twenty days, and also, if there be a newspaper in the county, by advertising therein once a week for three weeks; said notices shall contain the time and place for holding the election, the amount of money proposed to be raised, and the purposes for which it is intended to be used. The Board of Trustees shall appoint three judges to conduct the election, and it shall be held in all other respects, as nearly as practicable, in conformity with the general election law. At such election the ballots shall contain the words "Tax, yes" or "Tax, no," and also the name of one person as Assessor and one as Collector; *provided*, however, that the same person may be

elected for both offices. If two-thirds of the votes cast are "Tax, yes," the officers of the election shall certify the fact to the Board of Trustees, and shall also certify to the name of the person or persons having the plurality of votes for Assessor and Collector. The Board of Trustees shall issue certificates of election, and the Assessor shall forthwith ascertain and enroll, in the manner provided for County Assessors, all taxable persons and property in the district, and within thirty days he shall return his roll footed up to the Board of Trustees. The Board of Trustees upon receiving the roll shall deduct fifteen per cent therefrom for anticipated delinquencies, and thereby dividing the sum voted, together with estimated cost of assessing and collecting added thereto, by the remainder of the roll, ascertain the rate per cent required, and the rate so ascertained shall be and is hereby levied and assessed to on or against the persons or property named or described in said roll, and it shall be a lien on all such property until the tax is paid; and said tax, if not paid within the time limited in the next succeeding section for its payment, shall be recovered by suit, in the same manner and with the same costs as delinquent Territory and county taxes.

SEC. 26. As soon as the rate of taxation has been determined, as provided in the preceding section, the Board of Trustees shall place the tax list in the hands of the Collector, who shall give such bond as may be required by the Board of Trustees, and he shall then proceed to collect the tax, and shall, within sixty days, return the roll to the Board of Trustees with the word "paid" marked opposite the name of each person or description of property from whom or which he has received the taxes, and he shall at the same time file with the Board of Trustees the District Treasurer's receipt for all the moneys by him collected; and the persons or property on the roll not by the collector marked "paid" shall be deemed delinquent, and the Board of Trustees shall order said collector to proceed to collect the delinquent taxes in the manner prescribed in the last preceding section, and said roll or any certified copy thereof shall have the same force in evidence as a duplicate or delinquent tax roll of Territory or county taxes.

SEC. 27. All moneys collected from a district tax in any district shall be paid into the treasury of such district. The compensation of the Assessor and Collector shall be fixed by the Board of Trustees, and be paid in the same manner as the expenses for supporting schools for the district.

SEC. 28. Whenever at least ten heads of families petition the County Superintendent for the organization of a new school district, or for a subdivision of or change in the boundaries of an established district, that officer shall transmit the petition to the Board of County Supervisors, with his approval or disapproval of the proposition indorsed thereon. Upon receiving any such petition the said Supervisors shall have power to establish, alter or modify the district or districts, in accordance with the prayer of the petitioner, provided that no district shall be considered as organized, or to be entitled to any *pro rata* of moneys standing to the credit of the district from which it was separated, or of which it is a subdivision, until a public school has been actually commenced in such new school district, and unless such new school district shall commence a school within sixty days after the action of the Board of Supervisors making such new district, and such action shall become void and no district shall exist. All school districts organized at the time this act takes effect, according to law, are re-organized as legal organizations.

SEC. 29. All lots, buildings or other school property owned by any district, and devoted to public school purposes, shall be and the same are hereby exempt from taxation, and from sale under execution or other writ or order in the nature of an execution.

SEC. 30. The Territorial Superintendent of Public Instruction shall appoint three competent persons in each county within this Territory, who shall be and constitute a Board of Examiners; the County Superintendent to be one of said board, and *ex officio* chairman thereof, for the purpose of examining applicants and granting certificates of qualification to teachers of public schools. They shall meet at such times and places as the interests of the public may require, and be governed by such rules and regulations as the Territorial Board of Education may from time to time direct. They shall only grant certificates to such persons as shall pass a satisfactory examination, which certificate shall remain in force for two years, unless revoked for good cause shown. The Territorial Board of Education shall have power to remove said examiners, except the *ex officio* chairman thereof, and to fill vacancies in said board.

SEC. 31. The Territorial Board of Education shall have power, and it is hereby made their duty, to prescribe, and cause to be adopted, a uniform series of text books in the

principal studies pursued in the public schools, to wit: spelling, reading, grammar, arithmetic, geography, physiology, and such other studies as may be by said board deemed necessary.

SEC. 32. No portion of the public school funds, whether derived from Territorial, county or district taxation, shall be used or appropriated to any other than school purposes.

SEC. 33. The public school year shall commence on the first day of January and end on the last day of December. No school district shall be entitled to receive any portion of the public school moneys, in which there shall not have been taught a public school for at least three months within the year ending the last day of December previous, and no public school shall receive any moneys, benefits or immunities, under the provisions of this act, unless such school shall have been instructed by a teacher or teachers, duly examined, approved and employed by legal authority as herein provided.

SEC. 34. No books, tracts or papers of a sectarian or denominational character shall be used or introduced in any school established under the provisions of this act, nor shall sectarian or denominational doctrine be taught therein, nor shall any school whatever receive any of the public school funds which has not been taught in accordance with the provisions of this act.

SEC. 35. The Territorial Superintendent of Public Instruction and the County Superintendent of Public Schools are hereby authorized to administer oaths or affirmations to teachers, and all other oaths or affirmations relating to public schools.

SEC. 36. So much of the act entitled "An act to establish public schools for the Territory of Arizona," approved December, 1868, as may be in conflict with this act, is hereby repealed.

SEC. 37. This act to take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

To amend sections two (2), three (3) and four (4), chapter twelve (12), Howell Code, "Of Jails, Prisons, and the Confinement of Persons therein."

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section two of chapter twelve, Howell Code, be amended so as to read as follows:

§ 2. The Sheriff of each county shall have the charge of the prisoners sentenced to the Territorial penitentiary and confined in the county jails; and it shall be the duty of such Sheriff to provide them suitable bedding, clothing, board and medical attendance. He shall have power to enforce such discipline, rules and regulations in regard to such persons, as shall be prescribed by law.

SEC. 2. That section three of said chapter be amended to read as follows:

§ 3. All expenses incurred in removing such prisoners to any such jail, and furnishing food, clothing, bedding and medical attendance, shall be proper charges against the Territory, and shall be allowed by the Territorial Board of Directors; *provided*, that said Board of Directors shall not allow any expenses, except for the necessary bedding, clothing, board and medical attendance for said prisoners; and *provided, further*, that the sum allowed for boarding such prisoners shall not exceed the amount allowed by the Boards of Supervisors in the jails where such prisoners are confined; and the Territorial Auditor is hereby authorized and directed to draw his warrant for such sum or sums as may be allowed by said Board of Directors; and the Territorial Treasurer is hereby authorized and directed to pay said warrants out of any money in the treasury not otherwise appropriated.

SEC. 3. That section four of said chapter be amended to read as follows:

§ 4. John H. Archibald, S. R. De Long and E. N. Fish are hereby constituted and appointed a Board of Territorial Penitentiary Directors, and it is hereby made their duty to examine and allow all just claims against the Territory, in accordance with law, that may be presented for removing, feeding, clothing, furnishing bedding and medical attendance

for such Territorial prisoners. They may also, from time to time, make such rules and regulations as they may think proper, consistent with the laws of this Territory, relative to the care, management, discipline and employment of persons sentenced to the Territorial penitentiary, and may, in their discretion, cause such persons to be employed in any mechanical trade, or placed at hard labor upon any public or private work, under such rules and regulations as they may prescribe. The earnings of such prisoners shall be applied towards the expenses incurred on account of their imprisonment; and, *provided*, that all claims presented to the Board of Territorial Penitentiary Directors shall be itemized accounts, and sworn to before some officer authorized to administer oaths.

SEC. 4. All laws, acts or parts of acts, in conflict with this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

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## AN ACT

### Concerning marks and brands.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. Every person, being the owner of horses, mules, cattle, sheep, goats or hogs, shall have and keep a mark, brand and counterbrand (Venta), different from the marks, brands and counterbrands of his neighbors, and, as far as practicable, shall be different from any other in the Territory, and this mark different from any other in the county; *provided*, that nothing in this section shall apply to such brands or marks as are now recorded in accordance with law.

SEC. 2. Every such owner shall record with the Recorder of his county, his mark, brand and counterbrand, by delivering to said Recorder his mark, cut upon a piece of leather, and his brand and counterbrand burnt upon it, and the same shall be

kept in the Recorder's office, and a certified copy thereof made by the Recorder, with his seal of office attached thereto, shall be deemed evidence on the trial of any action in a court of competent jurisdiction, as to the ownership of all animals legally marked or branded. The Recorder shall enter in a book, to be kept by him for that purpose, a copy of said marks, brands and counterbrands, and properly index the same in the name of the owner or owners of said marks, brands and counterbrands; *provided*, that such Recorder shall be satisfied that such brand and counterbrand tendered to him for record is unlike any other mark, brand or counterbrand in the county, or so far as his knowledge extends, is different from any other in the Territory. For recording the mark, brand and counterbrand and indexing the same, the Recorder shall be entitled to demand and receive three dollars.

SEC. 3. No mark, brand or counterbrand shall be considered as lawful if not recorded, as specified in this act.

SEC. 4. Every person shall mark or brand his horses and mules before they are eight months old, and cattle before they are twelve months old, on the hip or hinder part, and mark or brand his sheep, goats and hogs before they are six months old. On the trial of any action to recover the possession of any animal which is marked or branded, as provided in this act, the mark or brand shall be deemed evidence that the animal belongs to the owner or owners of the mark or brand, and that he, she or they were entitled to the possession of the said animal at the time of the commencement of the action.

SEC. 5. No person shall use more than one mark, brand or counterbrand; *provided*, however, that this shall not extend to those persons who are the owners of more than one ranch or farm, and no minor living with his parents, nor apprentice or servant be allowed to use any mark, brand or counterbrand, other than that of his parent or master.

SEC. 6. If any person shall use any mark, brand or counterbrand other than the one recorded by him, except by the consent of the owner of such other mark, brand or counterbrand, or shall use more than one mark, brand or counterbrand, otherwise than is provided in the previous section, or suffer his ward, child, apprentice or servant to use any other than his own mark, brand or counterbrand on those of the stock they run with, he shall be liable to forfeit and lose, to any person suing therefor, the stock so branded and marked with any other than his proper mark or brand recorded by him; *provided*,

that this section shall not extend to any stock which may descend to any ward, child, apprentice or servant, by the gift or devise of any person other than the guardian, parent or master of such ward, child, apprentice or servant, but the marks, brands and counterbrands of such minors, apprentices or servants, shall be recorded as other marks, brands and counterbrands.

SEC. 7. Any person or persons selling cattle, which are not intended for slaughter, or any horses, mares, mules, jacks, or jennies, shall be required to counterbrand them on the shoulders, or give a written descriptive bill of sale; and when cattle are purchased for slaughter, any person or persons purchasing said cattle shall be required to go before the nearest justice of the peace, where said cattle were purchased, and procure from him a certificate that the cattle were purchased for slaughter, giving the mark and brand, and also the number and class of said cattle, and the name of the person or persons from whom they were purchased; who after examining such cattle, and finding them to be of the mark and brand of the person or persons who sold the same, shall give a certificate, with a copy of the bill of sale attached thereto, for which services the justice of the peace shall be entitled to demand and receive the sum of one dollar. All persons slaughtering cattle shall keep at the place of slaughter a book in which they shall enter daily the number and class of cattle slaughtered, the name of the person or persons from whom said cattle were purchased, the marks, and brands of such cattle and whether counterbranded or not, and if not counterbranded, such person or persons, slaughtering such cattle, shall enter in the book herein mentioned a copy of the bill of sale received by him from the person or persons who sold him such cattle, with a certificate attached thereto. Such book shall be kept ready at all times for the inspection of any person interested who may desire to examine the same.

SEC. 8. Any person or persons who shall at any time kill or slaughter any cattle for sale shall retain in their possession the hide taken off said animals, with ears attached thereto, without any alteration of the marks on the same, or any disfiguration of the brand for the period of eight days, and any Justice of the Peace or owner of cattle may, within the period of time herein mentioned, demand an exhibit of the hide or hides of any cattle so killed or slaughtered by the person so killing the same, or by any other person for whose use and benefit said animal was killed; and upon such demand being made, he or they shall produce the same for inspection of said Justice of the Peace or owner as herein mentioned.



SEC. 9. All persons owners of cattle shall, when he, she or they shall sell any hide or hides of their own mark or brand, place their counterbrand upon the same; and it shall not be lawful for any person to purchase any hide or hides without such counterbrand thereon, under the penalty of five dollars for each hide purchased on which such counterbrand is not placed; to be recovered on complaint being made before any Justice of the Peace in the county where such hide or hides were sold, besides paying all damages and costs of suit. One-half of all fines recovered under the provisions of this section shall be paid to any person who may make the complaint, and the other half to the District Attorney of the county where the suit is brought.

SEC. 10. The Board of Supervisors of the county shall provide a judicial or county brand to be used for the sale of stock on execution.

SEC. 11. All actions commenced under the provisions of this act for the recovery of fines and penalties, as herein imposed, shall conform to the proceedings had in Justices' courts in civil cases; *provided*, that the provisions of this act shall apply to the county of Yuma alone.

SEC. 12. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 13. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

Appropriating money for printing the report of the joint committee of Legislative Assembly appointed to take testimony as to Indian outrages and other matters.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. The sum of five hundred dollars is hereby appropriated out of any moneys in the hands of the Territorial Treasurer, belonging to the Territory, not otherwise appropriated, to pay for the printing of the report of the joint committee of the Legislative Assembly appointed to take testimony as to outrages and murders committed by the hostile Indians of this Territory, and other matters connected therewith; *provided*, that the Governor of the Territory shall have positive proof of a like amount, to wit: five hundred dollars has been raised by the citizens to be used in connection with this appropriation for the purposes aforesaid. When the Governor shall receive such proof, it shall be his duty to certify such fact to the Territorial Auditor.

SEC. 2. Upon receiving such certificate, the Territorial Auditor shall draw his warrant on the Territorial Treasurer for said sum of five hundred dollars.

SEC. 3. Upon presentation of the warrant mentioned in the preceding section, the Territorial Treasurer shall pay the same out of any moneys in his hands belonging to the Territory not otherwise appropriated.

SEC. 4. The Governor of this Territory shall superintend the printing mentioned in the first section of this act, and shall cause the same to be distributed throughout the United States and this Territory.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

Providing for the holding of District Courts in Maricopa county.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. The county of Maricopa is hereby made a part of the Third Judicial District of this Territory; and the Judge of said district is hereby directed and required to hold a term of the District Court, at the county seat of said county, on the first Monday in September, in the year 1871, and thereafter he shall hold two terms of the District Court in said county, in each year, one to commence on the first Monday in May, and one to commence on the first Monday in September.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

Fixing the apportionment for members of the Legislative Assembly of the Territory of Arizona, and providing for the taking of a census, and for other purposes.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. Members of the Legislative Assembly of the Territory of Arizona, shall be elected by counties, and as provided for in this act; and at the general election to be holden on the first Tuesday after the first Monday in November, A. D. 1872, and every two years thereafter, and until an enumeration of the inhabitants, to be taken as hereinafter provided in this act, and a different apportionment, made agreeable to law; the county of Pima shall elect four Members of the Council and eight Members of the House of Representatives; the county of Yuma shall elect one Member of the Council and three Members of the House of Representatives; the county of Mohave and the county of Yuma shall elect jointly one Member of the Council and one Member of the House of Representatives; the county of Yavapai shall elect two Members of the Council and five Members of the House of Representatives, and the county of Maricopa and the county of Yavapai, shall elect jointly one Member of the Council, and the county of Maricopa shall elect one Member of the House of Representatives.

SEC. 2. For the purpose of canvassing the election returns had for joint Members of the Council and the House of Representatives, in the counties of Yuma and Mohave, and the counties of Yavapai and Maricopa; it shall be the duty of the Board of Supervisors of Mohave county to canvass the votes cast for such joint members, in the same manner as the votes are canvassed for other officers elected under the general provisions of the law concerning elections; *provided*, that when said joint votes are canvassed and duly declared, the Board of Supervisors of Mohave county, shall at once transmit to the Board of Supervisors of Yuma county, a certified copy of said canvass and declaration; and that the Board of Supervisors of Maricopa county shall at once transmit to the Board

of Supervisors of Yavapai county a certified copy of said canvass and declaration; and *provided, further*, that the canvass and returns for the Members other than joint Members shall be canvassed and returned, in the manner as is now provided by law.

SEC. 3. Upon the reception of the certified copy of the canvass and declaration, from the county of Mohave, mentioned in the preceding section, by the Board of Supervisors of Yuma county, it shall be the duty of such Board of Supervisors, to open in public such returns, and estimate the vote of each county, for such person voted for, as joint Member of the Council and joint Member of the House of Representatives, and declare the result thereof.

SEC. 4. Upon the reception of the certified copy of the canvass and declaration from the county of Maricopa, mentioned in section two, by the Board of Supervisors of Yavapai county, it shall be the duty of such Board of Supervisors, to open in public such returns and estimate the vote of each county, for such person voted for as joint Member of the Council, and declare the result thereof.

SEC. 5. The Board of Supervisors to whom said canvass and declaration are made, shall, within twenty days after the day of election, or so soon as the result is ascertained, if within that time such canvass and declaration be received, make out and deliver, or send to each person chosen as Member of the Legislative Council and Member of the House of Representatives, a certificate of election, under the hand and seal of the Clerk of such Board of Supervisors.

SEC. 6. That an act creating the county of Pah-Ute, approved December 22d, A. D. 1865, is hereby repealed.

SEC. 7. The boundary lines of the county of Mohave are hereby extended so as to include the county of Pah-Ute, as described in the act mentioned in the preceding section, or so much thereof as remains within the boundaries of this Territory.

SEC. 8. The County Assessors of each county, beginning on the first day of March, A. D. 1872, and every two years thereafter, and at the time of assessing the taxable property of the county, shall take a census or enumeration of the inhabitants thereof, except Indians and soldiers in the military service of

the United States, which census shall show, first, the name of the head of each family and single person over twenty-one years of age, and not residing with any family; second, the number of persons over ten and under twenty-one years of age, residing in any family or separately as a family; third, the number under ten years of age. The Assessor shall return such census or enumeration to the County Recorder, on or before the first day of July, whose duty it shall be to file the same in his office, and transmit a certified copy thereof to the Governor, on or before the first day of December next ensuing. On the reception of such census returns by the Governor, he shall, at the meeting of the Legislative Assembly for the Territory, or within ten days thereafter, transmit to the House of Representatives a true copy of such census returns.

SEC. 9. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 10. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

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## AN ACT

To appropriate money for Educational purposes.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That there be, and is, hereby appropriated, out of the general fund of the Territory, the sum of three hundred dollars to the Sisters of St. Joseph, who are teaching and maintaining a school for the education of young ladies, in the town of Tuscon, to enable them to pay for the school books now in use in said school.

SEC. 2. Upon proof being made to the Territorial Auditor that the said Sisters of St. Joseph have kept said school, received said books, and that they are in use in said school, and that the same have not been paid for, the said auditor shall draw his warrant on the Territorial school fund for the said

sum of three hundred dollars, and the Territorial Treasurer shall pay said warrant from said fund, and charge the same to Pima county; and, in the division of the school fund amongst the counties by the Territorial Treasurer, the said amount shall be considered as having been paid to said county of Pima, on account of the Tucson school district of said county.

SEC. 3. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

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## AN ACT

To amend chapter thirty-four, Howell Code, "Of the Distribution, Custody and Application of the Public Moneys."

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That section two of chapter thirty-four, Howell Code, "Of the Distribution, Custody and Application of the Public Moneys," be amended to read as follows:

§ 2. Fifty per centum of all moneys arising under any provisions of law for taxes paid by mining corporations or associations, companies or individuals engaged in mining under the provision of law; the proceeds of lands and property belonging to the Territory, and the moneys accruing or arising from the interest, rents, issues and profits thereof; twenty-five per centum of the moneys collected for licenses, and fifty per centum of the moneys collected for poll tax, shall be paid into the Territorial treasury for Territorial purposes.

SEC. 2. That subdivision four of section four of said chapter thirty-four, Howell Code, "Of the Distribution, Custody and Application of the Public Moneys," be, and the same is, hereby repealed.

SEC. 3. That section eight of said chapter thirty-four be amended to read as follows:

§ 8. Ten per cent of all moneys received and retained by the County Treasurer as the moneys of the county shall constitute a contingent expense fund, to be used for the purpose of paying expenses of boarding prisoners, purchasing stationery and all necessary printing and blank books required by law. All other moneys so received and retained by the county Treasurer shall constitute a general fund, applicable to county purposes under the provision of law.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

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## AN ACT

To provide Revenue for the Territory of Arizona and the several counties thereof.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. The annual *ad valorem* tax of fifty cents upon each one hundred dollars value of taxable property is hereby levied, and directed to be collected and paid for Territorial purposes upon the assessed value of all property in this Territory not by this act exempted from taxation; and upon the same property the Board of Supervisors of each county is also hereby authorized and empowered to levy and collect for county purposes such additional and special taxes, not exceeding two dollars upon each one hundred dollars' value of taxable property, as the laws of this Territory may authorize or require them to levy and collect.

SEC. 2. The Board of Supervisors of each county shall, prior to the first Monday in July of each year, assess the amount of taxes that shall be levied for county purposes, designating the amount which shall, on each one hundred dollars of taxable property, real and personal, be levied for such purposes; and



shall add thereto the amount required by this act to be levied for Territorial purposes. The Board of Supervisors of the respective counties shall, prior to the first Monday of March of each year, cause to be prepared suitable books for the use of the Assessor, in which he shall enter his assessment rolls, as hereinafter provided; and said books shall contain suitable printed or written heads, and be ruled to conform with the form of the assessment roll as provided in this act.

SEC. 3. Every tax levied under the provisions or authority of this act, upon any real property, is hereby made a lien upon the property assessed, which lien shall attach on the first Monday in March, and shall not be satisfied or removed, until the taxes are all paid or the property has absolutely vested in a purchaser under a sale for taxes.

SEC. 4. All property of every kind and nature whatsoever, within this Territory, shall be subject to taxation, except —

*First.* All lands and lots of ground with buildings, improvements and structures thereon, belonging to the Territory, or any municipal corporation, or to any county of the Territory; and all lands belonging to the United States, or this Territory; and all buildings and improvements belonging to the United States, or this Territory.

*Second.* Court-houses, jails, town halls, council chambers, houses occupied by fire companies and their apparatus, and other public structures and edifices, and all squares and lots kept open for health or public use, or for ornament, belonging to any county, city, town or village in this Territory; public libraries, colleges, school-houses, and other buildings, for the purpose of education, with their furniture, libraries and all other equipments, and the lots or lands thereto appurtenant and used therewith, so long as the same shall be used for that purpose; *provided*, that when any of the property mentioned in this subdivision is private property, from which a rent or other valuable consideration is received for its use, the same shall be taxed as other property.

*Third.* Public hospitals, asylums, poor-houses and other charitable or benevolent institutions for the relief of the indigent or afflicted, and the lots or lands thereto appurtenant, with all their furniture and equipments, all grounds and buildings belonging to agricultural societies, so long as the same shall be used for that purpose only and without pecuniary gain.

*Fourth.* Churches, chapels and other buildings for religious worship, with their furniture and equipments, and the lots of ground appurtenant thereto and used therewith; *provided*, rent is not paid for such ground, so long as the same shall be used for such purposes only without yielding rent.

*Fifth.* The buildings and lots of ground appurtenant thereto, and used therewith, owned and used by the order of Free and Accepted Masons, the Independent Order of Odd Fellows, or by any benevolent or charitable society, except such buildings and lots of ground as are owned in connection with individual owners, then only to the extent owned by such orders or societies.

*Sixth.* Cemeteries and grave-yards set apart and used for the purpose of interring the dead.

*Seventh.* The property of widows or orphan children, not to exceed the amount of one thousand dollars to any one family.

SEC. 5. The term "real estate," whenever used in this act, shall be deemed and taken to mean and include, and it is hereby declared to mean and include, the ownership of, or claim to, or possession of, or right of possession to, any land or mining claims, either lode or placer, within the Territory; and the claim by, or possession of, any person, firm, corporation, association or company to any land or mining claims, either lode or placer, shall be listed under the head of real estate; the term "personal property," whenever used in this act, shall be deemed and taken to mean, and it is hereby declared to mean and include, all household and kitchen furniture; all law, medical and miscellaneous libraries; all goods, wares and merchandise; all chattels of every kind and description; all money on hand or on deposit in bank or banks or with individuals; all money at interest, secured by mortgage or otherwise; gold, silver and all other metals and minerals, solvent debts other than those mentioned in this section, when the amount thereof exceeds the indebtedness of the party assessed; stocks of goods on hand, horses, mules, oxen, cows, calves, beef-cattle, hogs, sheep, goats, jacks and jennets, and cattle of every description; wagons, carriages, buggies, omnibuses, stages, stage-coaches, sulkies, carts, drays and all other vehicles, whether for use or pleasure or hire; all machines and machinery; all works and improvements; all store-ships and hulks; all steamers, vessels and water-craft, of every kind and name, either owned in whole or in part by a resident or residents of the Territory, or navigating the waters of any river or bay within the Territory, and having a general depot or terminus within the Territory; all capital loaned, invested or employed in any trade, commerce or business whatsoever; the capital stock of all corporations, companies, associations, firms or individuals doing business or having an office in the Territory; the money, property and effects of every kind, except real estate, of all banks, banking institutions or firms; bankers, money-lenders and brokers, and

all property of whatsoever kind or nature not included in the term "real estate," as said term is defined in this act; all personal property in the hands of any trustee, agent, administrator, executor or receiver, and all personal property, mortgaged or pledged, shall, for the purposes of taxation, be deemed to be the property of the person who has the possession thereof.

SEC. 6. The Sheriff of each county, by virtue of his office, shall be the assessor of taxes, and Tax Collector for his county, and shall be designated as the "County Assessor" or "County Collector" as the case may be, and shall hold such offices during the term for which he holds the office of Sheriff.

SEC. 7. Before proceeding to assess the taxable property of the county, he shall take and subscribe an oath, and deposit the same in the office of the County Recorder, which oath may be in the following form:

TERRITORY OF ARIZONA, COUNTY OF ss.:

I do solemnly swear (or affirm) that I will, to the best of my knowledge and ability, truly and fairly assess, without favor or partiality, the taxable property of the county of , at its just cash value.

SEC. 8. The said County Assessor may appoint such number of Deputy Assessors to assist in assessing the property of his county as he may deem proper; such appointment shall be in writing, and filed in the office of the County Recorder; and every such deputy, before he proceeds to execute the duties of his appointment, shall take and subscribe the oath provided in the preceding section, to be taken by the County Assessor and filed in the office of the County Recorder. Such deputies, when so qualified, shall possess the same powers in making such assessments as their principal, but the County Assessor shall be responsible for their acts.

SEC. 9. If any Assessor, or Deputy Assessor, shall be guilty of neglect of any of the duties enjoined on him by law, he shall be liable to indictment in any court of competent jurisdiction, and fined in any sum not exceeding five hundred dollars.

SEC. 10. Suit may be instituted on the Assessor's bond in the manner prescribed by law, for the benefit of any person who may be aggrieved by the wrongful act or conduct of such Assessor or his deputy.

SEC. 11. The Assessor and his deputies are hereby authorized to administer all oaths and affirmations contemplated by law in the discharge of their duties as such Assessors.

SEC. 12. Between the first Monday in March, and the first Monday in June, in each year, the County Assessor, except otherwise required by special enactment, shall ascertain, by diligent inquiry and examination, all property in his county, real or personal, subject to taxation; and also the names of all persons, corporations, associations, companies or firms, owning, claiming, or having the possession or control thereof; and he shall then determine the full cash value of all such property, and shall list and assess the same to the person, firm, corporation, association, or company, owning or having the possession, charge, or control thereof. For the purpose of enabling the Assessor to make such assessment, he shall demand from each person and firm, and from the President, Cashier, Treasurer, or Managing Agent of each corporation, association, or company within his county, a statement, under oath or affirmation, of all the real estate and personal property within the county, owned, claimed by, or in the possession or control of, such person, firm, corporation, association or company. If any person, officer or agent, shall neglect or refuse, on demand of the Assessor or his deputy, to give, under oath or affirmation, the statement required by this section, the Assessor shall make an estimate of the value of the taxable property which such person, officer or agent, neglected or refused to render, under oath or affirmation, and the value so fixed by the Assessor shall not be reduced by the Board of Equalization. If the owner of any property, not listed by another person, shall be absent or unknown, the Assessor shall make an estimate of the value of such property. If the name of such absent owner is known to the Assessor, the property shall be assessed in his, her or their name; if unknown to the Assessor, the property shall be assessed to "unknown owners."

SEC. 13. If any person shall willfully make, or give, under oath or affirmation, a false list of his, her or their taxable property, or a false list of taxable property under his, her or their control, such person shall be deemed guilty of perjury, and upon conviction thereof, shall be punished therefor, as is by law provided for the punishment of perjury; and any property willfully concealed, removed, transferred or misrepresented by the owner or agent thereof, to evade taxation, shall, upon discovery, be assessed at five times the amount of tax for that year which would otherwise have been assessed upon

it; and fifty per cent of the amount of such additional tax, when collected, shall be paid to the person or persons who shall furnish the information which reveals the property so concealed, transferred, or misrepresented, and the remaining fifty per cent, after deducting the usual percentage for collection, shall be paid into the treasury, in the same manner as other taxes.

SEC. 14. If any person shall give the Assessor, or his deputy, a false name, or shall refuse to give his or her name, or shall refuse to give a list of property, as is by this act required, or shall refuse to swear or affirm to such list, he or she shall be guilty of a misdemeanor, and shall be arrested upon complaint of the Assessor, or his deputy, and upon conviction before a Justice of the Peace, he or she shall be punished by a fine of not less than ten dollars, nor more than three hundred dollars, or by imprisonment for a term of not less than two days, nor more than three months, or by both such fine and imprisonment.

SEC. 15. The Assessor and his sureties shall be, and they are hereby made, liable for the taxes on all taxable property within the county, when, through his neglect, it remains unassessed; and it is hereby made the duty of the District Attorney of such county to commence suit against such Assessor, and his sureties, for the amount of taxes due on property not assessed by him; *provided*, that such suit shall not be commenced until after the Assessor shall have completed the assessment roll each year.

SEC. 16. It shall be the duty of the Assessor to prepare a tax list, or assessment roll, alphabetically arranged in the book, or books, furnished him by the Board of Supervisors for that purpose, in which book, or books, shall be listed, or assessed, all the real estate and personal property within the limits of the county, and in said book or books, he shall set down, in separate columns —

*First.* The name of the taxable inhabitants, firms, incorporated companies or associations, in alphabetical order, if known, if unknown, the property shall be assessed to "unknown owners;" and if any person shall refuse to make a statement of his property, under oath, as required by this act, that fact shall be noted under his name.

*Second.* All real estate taxable to each inhabitant, firm, incorporated company or association, described by metes and bounds, or by common designation or name; if situate within the limits of any city, or incorporated town, describing by lots, or fractions of lots; if without said limits, giving the number



The Assessor shall also, in a book, make a map or plan of the various blocks within any incorporated city or town, and shall mark thereon the various subdivisions as they are assessed, and in each subdivision he shall mark the names of the persons to whom it is assessed.

SEC. 17. On or before the third Monday in June, in each year, the Assessor shall complete his tax list, or assessment roll, and shall attach his certificate thereto, and deliver it and the map, book, and all of the original lists of property given to him, to the Clerk of the Board of Supervisors; and as soon as he receives said assessment roll, the Clerk of the Board of Supervisors shall give notice of the fact, specifying therein the time of meeting of the Board of Equalization, by publication in one newspaper, if there be one published in the county, and if none, then in such manner as the Board of Supervisors shall direct; and he shall keep the roll open, in his office, for public inspection.

SEC. 18. The Supervisors of the county shall constitute a Board of Equalization, of which board the Clerk of the Board of Supervisors shall be Clerk. The Board of Equalization shall meet on the first Monday in July, and shall continue in session, from time to time, until the business of equalization presented to them is disposed of; *provided*, however, that they shall not sit after the last day of July, except as in this section provided. The Board of Equalization shall have power to determine all complaints made in regard to the assessed value of any property, and may change and correct any valuation, either by adding thereto or deducting therefrom, if they deem the sum fixed in the assessment roll too small or too great, whether said sum was fixed by the owner or the Assessor, except that in cases where the person complaining of the assessment has refused to give the Assessor his list, under oath, as required by this act, no reduction shall be made by the Board of Equalization in the assessment made by the Assessor; and if the Board of Equalization shall find it necessary to add to the assessed valuation of any property on the assessment roll, they shall direct their Clerk to give notice to the persons interested, by letter deposited in the post-office, or express, or otherwise, naming the day when they shall act in that case, and allowing a reasonable time to appear. As soon as possible after the adjournment of the Board of Equalization, in July, its Clerk shall make out a list of all persons the valuation of whose property has been added to, with the amounts so added, on the assessment roll, who have not appeared before the board, and a list of all property the valuation of which has been added to

on the assessment roll, with the amounts so added, the owners of which have not appeared before the board, and the Board of Supervisors shall cause the same to be published in one newspaper in the county, if there be any; and if not, then by posting one copy of the same in a public and conspicuous place in each township in the county. And any person, to the assessed value of whose property there was an amount added, not appearing before the Board of Equalization in July, may appear before the board in August, and upon making affidavit that he had no knowledge of such increased valuation of his property, he shall have a hearing before the Board of Equalization; and the determination then had shall be final. And the Clerk of the Board of Equalization shall note all changes made and report the same to the Treasurer, who shall make the changes required on the original assessment roll, and the Treasurer shall, in his next regular statement to the Territorial Auditor, report such changes in such statement. During the session of the Board of Equalization the Assessor shall be present, and also any deputy whose testimony may be required by the parties appealing to the board, and they shall have the right to make any statement touching such assessment, and producing evidence relating to questions before the board. And the Recorder of the county shall also be present and attend on the Board of Equalization, with an abstract of all unsatisfied mortgages and liens remaining on record in his office, arranged in alphabetical order; and the Board of Equalization shall make use of such abstract, and of all other information that they can gain from the records in the Recorder's office, or otherwise, in equalizing the assessment roll of the county, and may require the Assessor to enter upon such assessment roll any such mortgage or liens, or other property, which has not been assessed; and the assessment and equalization so made shall have the same force and effect as if made by the Assessor before the delivery of the assessment roll by him to the Clerk of the Board of Equalization. A quorum of the Board of Supervisors shall be sufficient to constitute the Board of Equalization, and a majority of the members present shall determine the action of the board.

SEC. 19. During the session, or as soon as possible after the adjournment of the Board of Equalization, its Clerk shall enter upon the assessment roll all changes and corrections made by the board, and thereupon deliver the assessment roll so corrected to the County Treasurer, whose duty it shall be to add up the columns of valuation, and enter the total valuation of each description of property on the roll, and on or before the third Monday of August, he shall deliver a true copy of



the corrected roll, to be styled a "Duplicated Assessment Roll," with Territorial, county and other taxes, and totals of taxes, to each person, carried out in separate money columns, with his certificate thereto attached, and also the map or plat-book to the Tax Collector.

SEC. 20. As soon as the Board of Supervisors shall have made the determination and estimate provided for in the preceding section, the County Assessor shall proceed to assess taxes for the amount as estimated, adding thereto, and to all other taxes, required by law to be assessed by him, not more than ten nor less than five per cent, as shall be directed by the Board of Supervisors, for collecting expenses upon the taxable property of the county, according and in proportion to the individual and particular estimate and valuation as specified in the assessment roll for the year.

SEC. 21. In making such assessment, the value and tax of each particular species of property, as assessed, shall be put down in separate columns, which shall constitute the tax-roll for the year. The following form may be used for that purpose:

1	2	3	4	5	6	7	8
Names of persons taxed.	Description of real estate.	Value of real estate.	Taxes on real estate.	Value of personal property.	Tax on personal property.	Poll tax.	Total tax.
		\$	\$	\$	\$	\$	\$

SEC. 22. Such tax-roll shall be completed on or before the third Monday in August, and delivered to the Board of Supervisors for their inspection, who shall carefully foot up the

several taxes therein levied, and shall give to the County Treasurer a statement thereof; and such County Treasurer shall immediately charge the amount of such taxes to the County Collector. If such tax-roll is found to be correct, the Chairman of the Board of Supervisors shall annex thereto immediately, under his hand, a warrant commanding such Collector to collect from the several persons named in said roll the several sums mentioned in the last column of such roll opposite their respective names, retaining in his hands the amount of his fees, and to account for and pay over to the County Treasurer the amounts therein specified on or before the 1st day of December then next; and, in case any person named in the tax-roll shall neglect or refuse to pay his tax, to levy the same by distress and sale of the goods and chattels of such person.

SEC. 23. The Sheriff, before entering upon his duties as *ex officio* Tax Collector, shall execute to the Territory of Arizona a bond in the penal sum of twenty thousand dollars, or in a greater sum if the Board of Supervisors of the county require it, with two or more sufficient sureties, to be approved by the Board of Supervisors, conditioned that he will faithfully perform all the duties of his office, as required by law, and pay over to the County Treasurer of the proper county all moneys received by him as Tax Collector of said county; *provided*, that no bond shall be required in a greater sum than twice the amount of taxes to be collected in such county.

SEC. 24. If any County Collector shall neglect or refuse to give the bond required in the preceding section, a majority of the Board of Supervisors are hereby authorized to appoint some suitable person to be County Collector, who shall take the oath of office required by law and execute the bond required of the County Collector, and when so qualified shall receive the tax-roll and warrant, and collect and return the taxes thereon in the manner provided in this act; *provided*, that if any vacancy occur in the office of County Collector by death, inability or otherwise, the Board of Supervisors may at any time fill the vacancy agreeably to the provisions of this section.

SEC. 25. The Tax Collector shall have the power of appointing one or more deputies to aid in his official duties, for whose conduct he shall be responsible.

SEC. 26. If any Tax Collector, or his deputy, shall willfully neglect or refuse to perform any of the duties enjoined on him by the provisions of this act, he shall be guilty of a misdemeanor

in office, and, on conviction thereof, shall be punished by imprisonment in the county jail, not more than one year, or by a fine of not less than two hundred nor more than one thousand dollars, or both such fine and imprisonment, and shall be forthwith removed from office.

SEC. 27. The Tax Collector shall, on the first Monday in each month, return to the Treasurer a list of all collections made under the preceding section; and it shall be the duty of the Treasurer to mark the word "paid" on the assessment roll opposite the name of each party whose taxes are so paid, as soon as the same shall have been delivered to him.

SEC. 28. Every County Collector, upon receiving the tax roll and warrant, shall proceed to collect the taxes therein mentioned, and for that purpose shall call at least once upon the person taxed, if a resident, or at the place of his usual residence in the county, and shall demand the payment of the taxes charged to him on such list.

SEC. 29. In case any person shall neglect or refuse to pay the tax imposed on him, including poll tax, the Collector shall levy the same by distress and sale of the goods and chattels of said person, or of any goods and chattels in his possession wherever the same may be found within his county, and no claim of property made thereto by any other person shall be available to prevent a sale.

SEC. 30. Whenever any tax is paid to the Tax Collector, he shall mark the word "paid," and the date of payment, in the duplicate assessment roll, opposite the name of the person on, or description of the property liable for, such tax, and shall give a receipt therefor, specifying the amount of the assessment, the amount of the tax, and a description of the property assessed; but no Tax Collector shall receive any taxes or real estate for any portion less than the least subdivision entered on the assessment roll; *provided, always*, that an owner of undivided real estate may pay the portion of taxes due on his interest therein.

SEC. 31. On the first Monday of December in each year, the Tax Collector shall, at the close of his official business on that day, enter upon the duplicate assessment roll a statement that he has made a levy upon all property therein assessed, the taxes upon which have not been paid; and shall immediately ascertain the total amount of taxes then delinquent, and file in

the office of the Treasurer a statement of said amount, verified by the oath of himself or deputy; and shall proceed to make out, and file in the office of the Treasurer, a list of all persons and property then owing any taxes, verified by the oath of himself or deputy, which list shall be completed by the second Monday in December, and shall be known as the "Delinquent List;" and, to enable the Tax Collector to make out said list, no taxes shall be received by him on the duplicate assessment roll after the last day of November.

SEC. 32. The Tax Collector shall, on the first Monday in each month, pay to the County Treasurer all money in his hands belonging to or collected for the use of the Territory or county; and shall, on the same day, present to the Board of Supervisors the Treasurer's receipt for said money; and shall, at the time, deliver to the Board of Supervisors, under oath, a true and correct account of all his transactions and receipts since his last settlement as Collector of Territorial and county taxes; and shall also state, under oath or affirmation, that all the money collected by him as Tax Collector has been paid, which account and statement shall be filed in the office of the Board of Supervisors. On the first Monday in December in each year, the Tax Collector shall attend at the office of the Board of Supervisors with his duplicate assessment roll, and the Treasurer and the Tax Collector shall then carefully compare the said duplicate assessment roll with the original, marking on the original roll the word "paid" opposite the name of each person whose taxes have been paid, or opposite the description of the property upon which taxes have been paid; and the Treasurer shall then and there administer to the Tax Collector an oath, which shall be written and subscribed on the original and duplicate assessment roll, to the effect that each person and all property assessed in said roll on which taxes have been paid, has the word "paid" marked opposite the name of such person or the description of such property; and the Treasurer shall then foot up the amount of taxes remaining unpaid, and credit the Tax Collector with the amount; and shall make a final settlement with the Tax Collector of all taxes charged against him on account of said assessment roll. Within ten days after such final settlement, the County Treasurer shall transmit by mail to the Territorial Auditor, a statement, in such form as the Territorial Auditor may require, of all and of each particular kind of property delinquent, and of the total amount of delinquent taxes. For the services required by this section the Tax Collector shall receive no fee or compensation whatever.

SEC. 33. If any Tax Collector shall refuse, for a period of five days, or willfully neglect to make the payments and settlements with the Treasurer and Board of Supervisors of his county, as in this act specified, he and his sureties shall be held liable to pay the full amount of taxes charged upon the assessment roll; and the District Attorney, on being instructed to do so by the Board of Supervisors of the county, shall cause suit to be brought against such Tax Collector and his sureties for the full amount due on the Treasurer's books. And, if any such suit is commenced, no credit or allowance whatever shall be made to such refusing or neglecting Tax Collector for delinquent taxes outstanding.

SEC. 34. The County Treasurer shall, within three days after receiving such delinquent list, deliver the same to the District Attorney of his county, duly certified by him; and shall, at the same time, publish a notice in some newspaper printed in said county, if there be any; and if not, then by posting notices in three public places in said county, that said delinquent list has been so deposited with the District Attorney, and that unless the delinquent taxes therein specified are paid to the District Attorney, within twenty days from the publication or posting of such notice, action will be commenced by said District Attorney for the collection of such taxes and costs. Said Treasurer shall make or procure and file with the District Attorney immediately an affidavit stating the contents of said notice and the manner and time of such publication or posting, as required in this section. The District Attorney, before receiving the delinquent list as provided in this section, shall enter into such additional bond as may be required by the Board of Supervisors.

SEC. 35. The District Attorneys of the several counties of this Territory are hereby authorized and directed, immediately after the expiration of the time specified in section thirty-four of this act, to commence actions in the name of the Territory of Arizona against the person so delinquent and against the real estate and improvements assessed so delinquent, and against all owners or claimants to the same, known or unknown; such action may be commenced in the county where such assessment is made, before any Justice of the Peace or court in said county, having jurisdiction thereof; and such jurisdiction shall be determined solely by the amount of delinquent tax sued for, not regarding the location of the land, as to the township, nor the residence of the person, as to town, township, county or Territory.

SEC. 36. The complaint in said action may be as follows :

TERRITORY OF ARIZONA, COUNTY OF

<p style="text-align: center;">The County of</p> <p style="text-align: center;">v.</p> <p>A. B. &amp; Co., and the real estate and improvements in [describing them].</p>	}	[Title of the court.]
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The county of \_\_\_\_\_, by H. Y., District Attorney of the county of \_\_\_\_\_, complain of A. B. \_\_\_\_\_, and also the following real estate and improvements [describing them with the same particularity as in actions of ejectment, or actions for the recovery of personal property], and, for cause of action, say :

That between the first Monday in \_\_\_\_\_ and the first Monday in \_\_\_\_\_, A. D. 18 \_\_\_\_\_, in the county of \_\_\_\_\_, in the Territory of Arizona, O. P., then and there being County Assessor of said county, did duly assess, and set down upon an assessment roll, all the property, real and personal, in said county, subject to taxation, and that said assessment roll was afterward submitted to the Board of Equalization of said county, and was by said board duly equalized, as provided by law ; that said A. B. was then and there owner of, and that there was duly assessed to him, the above-described real estate, improvements upon real estate, and certain personal property ; and that upon such property there has been duly levied, for the fiscal year A. D. 18 \_\_\_\_\_, a Territorial tax of \_\_\_\_\_ dollars, and a county tax of \_\_\_\_\_ dollars, amounting in the whole to \_\_\_\_\_ dollars, all of which is due and unpaid.

Wherefore said plaintiffs pray judgment against said A. B. for the sum of \_\_\_\_\_ dollars (the whole of said tax), and separate judgment against said real estate, for the sum of \_\_\_\_\_ dollars (the tax thereon), and for such other judgment as to justice belongs, and for all costs subsequent to the assessment of said taxes, and of this action.

H. Y., District Attorney,  
County of \_\_\_\_\_.

*Provided*, that if the property be assessed to an unknown owner, then any fictitious name may be inserted to represent such owner as defendant.

SEC. 37. Whenever any tax which shall have been, or which may hereafter be, assessed on personal property in this Territory, shall be returned as delinquent, under the provisions of this act, it shall be the duty of the District Attorney of the

county in which any such tax is returned, in the name of the Territory of Arizona, to sue the person or persons against whom such tax was assessed, before any court of competent jurisdiction, and to have, use and take all ways and means provided by law for the collection of debts to enforce the payment of any such tax; and the complaint in any such action shall be sufficient if it conform in substance to the requirements of section thirty-six of this act.

SEC. 38. Upon filing the complaint in a District Court, or before a Justice of the Peace, a summons shall be issued, as is provided in civil cases, and shall be served by delivering a copy thereof to each defendant named; and as to said real estate, by delivering a copy thereof to the person or persons in possession of the same; and, further, as to all real estate, by posting a like copy in some public place thereon; *provided*, that if any personal defendant cannot be found in the county in which said action is brought, then service may be made upon such defendant by posting a copy of the summons, for twenty days, at the court-house door of said county; and *provided, further*, that in any suit for taxes brought before a Justice of the Peace, under the provisions of this act, it shall not be necessary to serve a copy of the complaint upon any defendant.

SEC. 39. Executions issued upon judgments rendered for any such tax, may be levied upon any property liable to be seized and sold under execution, and the proceedings of an officer with any such execution shall be the same in all other respects as are now directed by law.

SEC. 40. The production of any tax or assessment roll on the trial of any action brought for the recovery of a tax therein assessed, may, upon proof that it is the original assessment roll or the tax roll, with the warrant annexed, of the county named as the plaintiff in such action, be read or used in evidence; and if it shall appear from said assessment roll that there is a tax therein assessed against the defendant in such suit, it shall be *prima facie* evidence of the legality and regularity of the same; and the court before whom the case may be pending shall proceed to render judgment against the defendant, unless he shall make it appear that he has paid such tax or that such property is exempt from taxation under the provisions of this act, or that he had no claim, title or interest in the property assessed at the time of assessment, and no stay of execution shall be allowed on any such judgment.

SEC. 41. Chapter forty-eight, Howell Code, "Of Proceedings in Civil Cases," and the several amendments thereto, so far as the same are not inconsistent with the provisions of this act, are hereby made applicable to proceedings under this act; and any deed derived from a sale of real property under this act, shall be conclusive evidence of title, except as against actual frauds, or prepayment of the taxes by one not a party to the action, or judgment in or upon which such sale was made, and shall entitle the holder thereof to a writ of assistance from the District Court to obtain possession of such property; *provided* that the Sheriff, in selling such property, shall only sell the smallest quantity that any purchaser will take and pay the judgment and all costs; and *provided, further*, that when property sold belongs to minors, or persons under legal disability, they shall have until six months after said disability is removed, to redeem said property by paying the whole amount of the judgment, and all subsequent taxes and interest, paid by and due to the purchaser at said sale, but this provision shall not apply when the executor or administrator, of the estate, or the father, or in case of his death, the mother or guardian of such minor children, has been personally served with process; and *provided, further*, that the real estate so sold for taxes may be redeemed from such sale, as in case of sale upon execution, as provided in other civil cases, by paying to the Sheriff the total amount of the judgment and all costs, with thirty per cent thereon; and *provided further*, that if the same is paid within three months from the date of the certificate of sale, it shall be for the total amount of the judgment and all costs, with fifteen per cent thereon. All moneys collected under this act, except costs and charges, shall, without delay, be paid to the Treasurer of the county, to be distributed to the proper funds; and each collection and the date thereof shall be entered opposite the proper name or property in the delinquent tax list, which shall be open to public inspection.

SEC. 42. Twenty-five per cent shall be added to the original amount of all delinquent taxes, and shall be collected by the District Attorney, as part of the delinquent taxes; five per cent of which shall be paid as fees, by the District Attorney, to the County Treasurer, at each monthly settlement, and the remaining twenty per cent shall be retained as fees by the District Attorney. In case of suit being brought there shall be allowed to all officers except District Attorneys, the fees allowed in other civil cases. The District Attorney shall be allowed for each suit prosecuted to judgment in the District Court, fifteen dollars; if settled after suit brought and before



judgment, ten dollars; for each suit prosecuted to judgment before a Justice of the Peace, five dollars; if settled after suit brought, and before judgment, three dollars; to be taxed in all cases as costs against the defendant. All officers shall perform such services as may be required of them under this act, without the payment of fees in advance; all costs shall be taxed and entered in the judgment against the person, and real estate and improvements, when the judgment is the same against all; or if the judgments against the person and property are for different sums, then the costs may be apportioned by the court as the same may be deemed just; *provided*, that no fees or costs shall be paid to any officer or District Attorney unless the same be collected from the defendants.

SEC. 43. The District Attorney shall on the receipt of any money for taxes enter the same on his delinquent list opposite the name of the person delinquent or opposite the description of the property, and shall, on the first Monday in each month after the time fixed in this act for the commencement of actions against delinquent tax-payers, pay to the County Treasurer all moneys collected by him for taxes, taking duplicate receipts for the amount so paid; one of which receipts he shall on the same day file with the Clerk of the Board of Supervisors, and shall at the same time file with said Clerk of the Board of Supervisors a list of all judgments obtained by him up to that date, for taxes under the provisions of this act, stating therein the names of the defendants, if known, or, if unknown, a description of the property, the amount of each judgment and the name of the court or Justice in which, or before whom, said judgment was obtained; he shall, on the Saturday next preceding the first Monday in May in each year, pay to the County Treasurer all moneys received by him for taxes and not previously paid over, taking duplicate receipts therefor, one of which shall in like manner be filed with the Clerk of the Board of Supervisors; and shall at the same time file with the Clerk of the Board of Supervisors a list of all judgments obtained by him and not previously filed as herein provided; he shall also, on the day last mentioned, make and file with the Clerk of the Board of Supervisors an affidavit stating that he has paid to the County Treasurer all moneys collected by him for taxes prior to that date, and filed the receipts therefor, and that the several lists filed by him, as herein directed, contain all judgments obtained by him under the provisions of this act. On the first Monday in July in each year the District Attorney shall attend at the meeting of the Board of Supervisors with the delinquent list or lists, and the Board of Supervisors shall then carefully compare the same with the Treasurer's receipts

and statements filed by the District Attorney ; and, if the same shall be found to be correct, the Chairman of the Board of Supervisors shall give to the District Attorney a receipt specifying the same. The District Attorney shall at the same time deliver to the Treasurer a written statement of all delinquent taxes upon said delinquent list or lists remaining uncollected, or for which suit has not been brought, with his reasons in detail for not being able to collect the same, or for not bringing suit ; and the Treasurer shall immediately file the said delinquent list or lists and statement with the Clerk of the Board of Supervisors, and the Board of Supervisors shall revise the same by striking off such taxes as cannot be collected ; the delinquent list or lists shall then be returned to the Treasurer, who shall note the changes made, and shall then return the same to the District Attorney. The Treasurer shall, in his next report to the Territorial Auditor, state the amount stricken off the delinquent list or lists by the Board of Supervisors.

SEC. 44. If any District Attorney shall fail or refuse to pay to the County Treasurer, as provided in this act, any money collected by him for taxes, he shall be guilty of a misdemeanor, and upon conviction thereof, shall be forthwith removed from office, and shall be punished by a fine in any sum not exceeding five hundred dollars, or by imprisonment in the county jail for a period not exceeding one year, or by both such fine and imprisonment.

SEC. 45. Each male inhabitant of this Territory, over the age of twenty-one and under sixty, and not by law exempt from poll tax, shall pay a poll tax for the use of the Territory and county of three dollars, fifty per cent of the net proceeds of which shall be paid into the County Treasury for county purposes ; the remaining fifty per cent of the net proceeds to be paid into the county treasury for the use of the Territory ; *provided* such male inhabitant shall pay the same to the Assessor between the first Monday of March and the first Monday of September in each year, in default of paying the same to the Assessor within the time specified, each such inhabitant shall pay a poll tax of five dollars for the use of the Territory and county, the collection of which shall be enforced by the County Collector, whether the name of such inhabitant be on his tax roll or not, and the Collector shall receive one dollar for each six dollars of poll tax by him lawfully collected, in each year ; *provided*, also, that no person shall be required to pay more than three dollars, unless such poll tax shall have been demanded of him, or unless he shall have secreted himself for the purpose of avoiding the payment of such tax.

SEC. 46. The County Treasurer shall, on or before the first Monday of March, in each year, cause proper blank receipts for the poll tax of citizens provided for in this act, to be printed of a uniform appearance, changing the style thereof each year, and sign a number of them equal to the probable number of inhabitants in his county liable to pay poll tax, and shall number them, or so many of them as may be required, and make an entry thereof in a book to be kept for that purpose, and thereupon deliver them to the Clerk of the Board of Supervisors, who shall in turn likewise sign them and make an entry thereof in a book to be kept by him for that purpose.

SEC. 47. The Clerk of the Board of Supervisors, shall, from time to time, issue to the Tax Collector so many of the receipts for poll tax as he may need, taking his receipt therefor.

SEC. 48. No receipts for poll tax other than those mentioned in the forty-sixth section of this act, shall be used or given for the payment of any such tax; and any Tax Collector who shall receive any poll tax without delivering the proper receipt required by law, shall be guilty of a misdemeanor for each poll tax so received, and on conviction thereof shall be punished by imprisonment in the county jail, not less than three months, nor more than one year, and by a fine of not less than one hundred, nor more than one thousand dollars for each offense, or by both such fine and imprisonment.

SEC. 49. Upon receiving such receipts from the Clerk of the Board of Supervisors, the Tax Collector shall give a receipt to said Clerk of the Board of Supervisors for the same; and the said Clerk of the Board of Supervisors shall immediately charge the same to the Tax Collector so receiving them. All receipts delivered to the Tax Collector before the first Monday in September, shall be filled out with the sum of three dollars, and three dollars shall be charged to him for each one so delivered; and all such receipts delivered to the Tax Collector after the first Monday in September each year, shall be filled out with the sum of five dollars, and five dollars shall be charged to him for each one so delivered.

SEC. 50. The Board of Supervisors of each county shall exact (if they deem it desirable) an additional bond from the Tax Collector, with additional sureties in such penal sums as the said board shall believe to be necessary to insure the prompt and faithful payment to the County Treasurer of all moneys received by such Tax Collector for poll tax.

SEC. 51. No person shall not be deemed or held to have paid his poll tax unless he be able to exhibit a receipt therefor, issued from the office of the County Treasurer, or otherwise prove the payment of the same.

SEC. 52. Any person or persons who shall pass, sell or transfer, or attempt to pass, sell or transfer, or who shall forge or fraudulently issue any receipt or receipts for poll tax, contrary to the spirit or intention of this act, shall be guilty of felony, and, on conviction thereof, shall be punished by imprisonment in the Territorial penitentiary for not less than one year nor more than two years.

SEC. 53. To enforce the collection of poll taxes, the Collector may seize so much of every and any species of property, right, claim or possession whatever, claimed or in the possession of any person liable to and refusing to pay his poll tax, or in the possession of any other person, and belonging to such person so refusing to pay such poll tax, as will be sufficient to pay such poll tax and cost of seizure and sale, and may sell the same, at any time or place, upon giving a verbal notice an hour previous to such sale, and any person indebted to another liable to a poll tax, who shall neglect or refuse to pay the same, may pay the same for such other, and deduct the amount thereof for such indebtedness. The Collector, after having deducted the poll tax for which such property was sold, and the necessary fees and costs of the sale, shall return the surplus of the proceeds to the owner of the property. A delivery of the possession of the property by the Collector to any purchaser at any such sale shall be sufficient title to the purchaser without the execution of a deed therefor by the Collector.

SEC. 54. If any person shall give to the Tax Collector or his deputy a false name, or shall refuse to give his name, he shall be guilty of a misdemeanor, and shall be arrested upon complaint of the Tax Collector or his deputy, and upon conviction before a Justice of the Peace, he shall be punished by a fine of not less than ten dollars or more than one hundred dollars, or by imprisonment for a term not less than two days nor more than three months, or by both fine and imprisonment.

SEC. 55. On the first Monday of each month the Tax Collector shall make oath, before the Clerk of the Board of Supervisors, of the total number of poll taxes collected by him during the last preceding month, and shall at the same time file the County Treasurer's receipt for the total amount of poll taxes collected, less the amount allowed by this act for fees; and on

the first Monday in September he shall return all the three dollar poll tax receipts by him received and not used, and shall pay to the Treasurer the total amount collected and not paid in theretofore subject to the deduction aforesaid; and he shall, at the same time, receive from the County Treasurer, through the Clerk of the Board of Supervisors, a sufficient number of five dollar receipts to enable him to collect taxes from all the polls in his county who have not then paid; and, on the Saturday next preceding the first Monday in December of each year, the Tax Collector and the Treasurer shall attend at the office of the Board of Supervisors, and the Board of Supervisors shall then and there finally settle with the Tax Collector for all poll tax receipts signed by the Treasurer and delivered to him; and the Tax Collector shall then pay over the amount of all poll tax receipts received by him, and not then or theretofore returned; and all the poll tax receipts returned by the Tax Collector shall be forthwith transmitted by the Clerk of the Board of Supervisors, with the annual statement, to the Territorial Auditor; and no poll tax receipts shall be valid for any year unless issued after the first Monday of March in such year.

SEC. 56. At the settlement with the Tax Collector, required on the first Monday in December, it shall be the duty of the Clerk of the Board of Supervisors, and he is hereby required, to forthwith transmit to the Territorial Auditor a certified statement of the amount of poll-taxes paid over to the County Treasurer of his county up to that time, and he shall deliver a duplicate of such statement to the County Treasurer; and on the final settlement, on the Saturday next preceding the first Monday of December in each year, the Clerk of the Board of Supervisors shall, immediately upon the conclusion thereof, transmit a certified statement to the Territorial Auditor, stating therein the number of all receipts for poll tax delivered by the County Treasurer to him, the number of such receipts issued by him to the Tax Collector, the number of such receipts returned by the Tax Collector, and the number of such receipts thus transmitted to the Territorial Auditor.

SEC. 57. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 58. This act shall be in force and take effect from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

Entitled An act to provide for constructing and maintaining Toll-Roads, Bridges and Ferries in Arizona Territory.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. Any person or persons desiring to construct and maintain a toll-road, within any one or more counties of this Territory, shall make, sign and acknowledge, before some officer entitled to take acknowledgments of deeds, a certificate specifying, first, the name by which the road shall be known; and, second, the names of the places which shall constitute the termini of said road. Such certificate shall be accompanied with a plat of the route of the proposed road, and shall be recorded in the office of the County Recorder of the county or counties within, or through which, such road is proposed to be located; and the record of such certificate and plat shall give constructive notice to all persons of the matters therein contained. The work of constructing such road shall be commenced within thirty days of the time of making the certificate above mentioned, and shall be continued with all reasonable dispatch until completed.

SEC. 2. On complying with the provisions of the preceding section, said person or persons shall have the right to construct, complete and maintain a toll-road over the route and between the termini mentioned in such certificate, and establish and collect such rates of toll thereon as he or they may deem proper, for the term of ten years; *provided*, that after the expiration of five years from the time of the commencement of taking tolls on any such road, the county or counties in which it is located shall have the right to purchase any such road at an appraised value, to be determined by five Appraisers, to be selected as follows: two by the owner or owners, two by the County Supervisors of any county, in which said road is located, wishing to purchase the same, and one by the four Appraisers hereinbefore provided for, and their valuation shall be deemed the true value of the road. The rates of toll so established shall be written, printed or painted, in a plain and legible manner, on a bulletin board, to be posted at each toll-gate on such road; and if any person, who shall construct any toll-road under the provisions of this act, or who shall own any interest

in any road so constructed, shall demand or collect any higher or greater rates of toll than those specified on said bulletin board, he shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, shall, for each offense, be punished by fine in any sum not exceeding one hundred dollars, and in default of payment of such fine may, in the discretion of the court, be committed to the county jail until such fine be paid. One-half of all fines so collected shall go to the informer or prosecutor, and one-half to the school fund of the county; but in no case shall the county be responsible for the costs in any such prosecution.

SEC. 3. Any person or persons proposing to construct a toll-road, under the provisions of this act, shall have the right to enter upon private lands for the purpose of examining and surveying the same; and when such lands cannot be obtained by the consent of the owner or owners thereof, so much of the same as may be necessary for the construction of said road may be appropriated by said person or persons, after making compensation therefor, as follows: Said person or persons shall select one appraiser, and said owner or owners shall select one, and the two so selected shall select a third, who shall appraise the lands sought to be appropriated, after having been first sworn, before some officer entitled to administer oaths, to make a true appraisement thereof, according to the best of their knowledge and ability. If such person or persons shall tender to such owner or owners the appraised value of such lands, they shall be entitled to proceed in the construction of the road over the lands so appraised, notwithstanding such tender may be refused; *provided*, that such tender shall always be kept good by such person or persons; and *provided, further*, that an appeal may be taken by either party, from the finding of the appraisers, to the District Court of the district within which the lands so appraised shall be situated, at any time within three months after such appraisement.

SEC. 4. The owner or owners of any toll-road, constructed or maintained under the provisions of this act, shall at all times keep the same in as good condition and repair as may be practicable; and if such owner or owners shall fail to keep the same in such condition and repair, such failure shall work a forfeiture of all rights, privileges and franchises belonging to such owner or owners, or any person having any interest therein. Such franchise may be also declared forfeited, on information, in the nature of a *quo warranto*, in the manner provided by law; and the owner or owners of any road, on which tolls are collected under the provisions of this act, shall be liable for all damages

sustained by parties passing over such road, in consequence of the carelessness or negligence of the owner or owners in keeping their road in proper order.

SEC. 5. If any person traveling upon any toll-road that may be constructed under the provisions of this act, shall attempt to run by, or go around, any toll-gate established thereon, with the intent to avoid the payment of toll, he shall be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall, for each offense, be punished by fine in any sum not exceeding fifty dollars, and may, in the discretion of the court, be imprisoned in the county jail until such fine be paid. All fines collected under the provisions of this section shall be paid into the treasury of the proper county for the benefit of the school fund ; but in no case shall the county be responsible for the costs of any such prosecution.

SEC. 6. The owner or owners of any toll-road constructed under the provisions of this act shall keep, or cause to be kept, an accurate account of the gross receipts and expenditures of such road, and make a quarterly report thereof under oath, to the Territorial Auditor, accompanied by the receipt of the County Treasurer of such county in which such road is located, for two per cent of the gross proceeds of such roads, which shall be paid by said County Treasurer as other moneys, into the Territorial treasury, and credited to the general school fund ; *provided*, that if in three years after the completion of any roads, the net proceeds shall exceed fifty per cent per annum on the cost of construction, then all such excess of fifty per centum shall be paid to the general Territorial school fund, in the same manner as provided in this section for the payment of the two per cent on the gross proceeds, which shall, with the two per cent, be paid in the same kind of money or currency as that collected for tolls.

SEC. 7. Upon the expiration or forfeiture of any toll-road franchise, the ownership, with all rights and privileges, shall vest in the county or counties in which it is located, and the County Supervisors may declare it a free highway, or they may collect tolls on such roads to keep them in good repair ; provided the County Supervisors may extend the time of any expired franchise, so as to allow the owners thereof to collect tolls thereon for five years, subject to all the provisions in this act.

SEC. 8. Whenever any ten tax payers in any county through which a road is located and constructed under the provisions of



this law are convinced that tolls charged on said road are unreasonably high, they shall have the right to petition to the Board of County Supervisors to have said rate reduced, which petition shall be accompanied by an affidavit setting forth wherein said rates of toll should be reduced, and thereupon the County Supervisors shall immediately notify the owners of the road so complained of, who shall select three men to act with the County Supervisors, and the six shall select a seventh man, and the seven so selected shall have power to fix the rates of toll to be charged on any road thus complained of, which rates shall not be reduced for a period of five years thereafter, unless at the option of the owners thereof. At the expiration of five years, as mentioned in section two, the county or counties through which said road or roads are located shall have the right to purchase the same; the price and mode of payment to be fixed by a board of referees, composed of the same number and selected in the same manner as mentioned in section two of this act; *provided*, however, that should no complaint be made of too high rates of toll, the said county or counties shall have the right of purchase, as aforesaid, five years from the date of the completion thereof.

SEC. 9. Toll-bridges and ferries may be established and maintained subject to all the provisions of this act.

SEC. 10. Nothing in this act shall be so construed as to give a right of way to exceed in width forty-five feet.

SEC. 11. No toll road constructed under the provisions of this act, nor otherwise, shall interfere with any road or highway now in general use by the traveling public.

SEC. 12. This act shall be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

To provide for the location, construction and maintenance of Public Roads in the Territory of Arizona.

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. All roads and highways in the Territory of Arizona which have been located as public highways by order of the Board of Supervisors, and all roads in public use which have been recorded as public highways, or which may be recorded by authority of the Board of Supervisors, from and after the passage of this act, are hereby declared public highways; and all roads in the Territory of Arizona now in public use, which do not come within the foregoing provisions of this section, are hereby declared vacated; *provided*, no toll-road shall be established on any road vacated by virtue of the foregoing provisions of this section, upon which there shall have been expended any money or labor belonging to the road fund or tax of the several counties, unless with the full knowledge and consent of the Board of Supervisors of said counties.

SEC. 2. It shall be the duty of the Board of Supervisors of the Territory to divide the several counties into road districts, and to appoint annually, before the first Monday in March of each year, and at any time thereafter when vacancies shall occur from any cause, an Overseer for each road district, whom they shall have power to remove at pleasure.

SEC. 3. Immediately after such appointments are made the County Recorder shall notify the appointees of their appointment, and shall furnish to each Road Overseer a description of the boundaries of his district.

SEC. 4. The Road Overseers shall, before entering upon the discharge of their duties, enter into a bond with two or more sureties, to be approved by the Board of Supervisors, in such sum as they may deem necessary, conditioned for the faithful discharge of their duties as Road Overseers to the best of their knowledge and ability, which bond shall be executed to the Territory of Arizona.

SEC. 5. The Road Overseers shall cause the public highways within their respective districts to be kept clear from obstructions and in good repair, causing banks to be graded, bridges and causeways to be constructed where the same may be necessary, to keep the same in repair, and to renew the same when destroyed, and to open new roads when ordered by the Board of Supervisors.

SEC. 6. The Road Overseers shall have power to make use of any gravel, dirt, timber and rock for improving the roads necessary from any adjacent unimproved land, and the Board of Supervisors may allow such damages, if any there be, to the owners or claimants of said lands as they may deem just; *provided*, that said Board of Supervisors shall be liable, jointly and severally, to pay damages to the county at the suit of any citizen, if it shall be made to appear that they have allowed extraordinary and extravagant damages to such property owners.

SEC. 7. The Clerk of the Board of Supervisors shall cause proper blank receipts to be printed, of a uniform appearance, but annually changing the style thereof, which receipts shall be signed by the Clerk of the Board of Supervisors of the county, in writing. No other receipts than the above-mentioned shall be used by the Road Overseers, or given in payment for labor performed upon the roads, or for its equivalent in money, as hereinafter provided.

SEC. 8. The Clerk of the Board of Supervisors, immediately after the Road Overseers shall have entered upon the discharge of their duties, shall issue to each Road Overseer as many receipts, signed, as he may require, taking his receipt for the same, and the receipts so delivered to such Overseer shall be accounted as so much cash paid him, at two dollars each. The Road Overseers shall settle half yearly with the Clerk of the Board of Supervisors, to wit: on the first Monday in July and January, and all road receipts returned by them to the Clerk of the Board of Supervisors shall be deducted from the amount issued to each Overseer as aforesaid; and the Overseers shall account to the Board of Supervisors, at their annual settlement, for all receipts not returned by them, and for all moneys received by them from the Board of Supervisors belonging to their respective road districts.

SEC. 9. Every male resident of the Territory, over twenty-one and under fifty years of age, shall be required to perform, either in person or by substitute, one day's labor on the highways in their respective road districts, which labor shall be

performed at any time during the year when required by the Road Overseer; or, in default of performing labor, shall pay to the Road Overseer of his district the sum of two dollars, for the benefit of the highways of the district. Whenever the labor required by this section has been performed by any person, or, instead thereof, money paid, the Road Overseer shall deliver to the person entitled thereto a proper receipt, signed by the Clerk of the Board of Supervisors, and countersigned by himself, specifying in said receipt whether received in money or labor; and no receipt shall be given for labor performed upon the roads, unless one full day's work has been performed to the satisfaction of the Road Overseer.

SEC. 10. The Road Overseer shall give at least three days' notice, in writing, to each person resident of his district, subject to road tax, to appear on a certain day and hour named, and at a certain place in his district, to do and perform the labor required of him by section nine of this act; and any person thus notified, who shall fail to appear, either in person or by substitute, at the day, hour and place designated in said notice, or who, appearing, shall refuse to perform the labor required of him, shall be considered as a delinquent, and shall be proceeded against as such, and the Road Overseer shall proceed to collect of him, in money, the sum of two dollars, in manner and form as hereinafter provided; *provided*, that nothing herein contained shall be so construed as to prevent the Road Overseer from accepting labor at any time from the delinquent, if he shall deem the same advisable. Any person who shall have been prevented by sickness from appearing pursuant to notice, and who shall present to the Clerk of the Board of Supervisors of his district a certificate from any physician, or three respectable citizens of his district, certifying to his disability to perform the required labor, shall not be liable as a delinquent under the provisions of this act.

SEC. 11. Whenever any person shall be declared a delinquent, as provided in section ten of this act, it shall be the duty of the Road Overseers to levy upon any property of said delinquents which may be found, and to sell the same at auction, to the highest bidder, for cash, or so much thereof as may be necessary to pay the amount of his delinquency, and the cost of levy and sale; *provided*, no sale shall be valid unless due notice thereof has been posted in three of the most public places in the district, of the time and place of such sale, together with description of property to be sold, at least five days previous thereto. The Road Overseer shall be entitled to charge three dollars for his services in levying upon and advertising

property, and for selling the same, and the same shall not in any manner become a county charge.

SEC. 12. Moneys, credits and effects of the delinquent may be attached in the hands of third parties by the Road Overseers, by delivering to the party having such credits, moneys or effects of the delinquent, a written order of garnishment, requiring said party to pay him the sum of money due by delinquent, and if the person thus served with notice shall pay the amount demanded, the Road Overseer shall deliver to him a receipt therefor, including the costs and charges allowed to the Overseer, viz., three dollars; and the receipt thus delivered shall be a legal offset to any claims existing against the party garnished in favor of the delinquent. If the person on whom the garnishment is served should neglect or refuse to pay to the Road Overseer the sum demanded of him within five days after receiving said notice, the Road Overseer shall apply to any Justice of the Peace of his township for an order requiring said person so served as aforesaid to be and appear before him forthwith, or on a certain day named in said order, to answer, under oath, concerning any moneys, credits or effects in his hands belonging to the delinquent, and if it shall appear by the answer of the party, to the satisfaction of the Justice, that he has moneys, effects or credits in his hands belonging to the delinquent, the Justice shall enter in his docket a judgment against the party thus examined for the sum of five dollars and costs, two dollars of which shall be paid to the Road Overseer, and applied by him upon the construction and repairs of the highways in his district, and three dollars to the Road Overseer for his services. Upon receiving the said sum of five dollars, the Overseer shall execute a receipt for the sum of two dollars, signed by the Clerk of the Board of Supervisors, and a receipt for the remainder, signed by himself. The judgment rendered against the person served with garnishment shall be collected in the same manner as other judgments in Justices' courts, and shall be a legal offset against the delinquent in favor of the judgment debtor.

SEC. 13. The Road Overseers shall have power to let contracts for the construction, repairs and improvement of public roads or bridges in their respective districts, when the amount of such contracts shall not exceed the sum of two hundred dollars; *provided*, that all the contract shall be let to the lowest responsible bidder; and *provided*, that no contracts shall be let unless due notices of the time and place of letting has been given, by posting notices in at least three of the most public places in the district, at least one week prior to letting, specify-

ing the work to be done, and asking for sealed proposals. All contracts for the construction, repairs and improvement of roads, involving an expenditure exceeding the sum of two hundred dollars, shall be let by the Board of Supervisors to the lowest responsible bidder, notice of such letting to be posted in three conspicuous places in the county, one of which shall be in the immediate vicinity of the place where the work is to be done, at least two weeks prior to the letting, asking for sealed proposals; but the Road Overseers may contract for repairs of roads or bridges to any sum not exceeding the sum of fifty dollars, without advertising for sealed proposals.

SEC. 14. All improvements upon the public highways shall be made under the supervision and direction of the Road Overseers of the district in which the improvement is made, and no contractor shall receive pay in full for work performed under his contract until the Road Overseer has accepted the job from the contractor by certificate in writing; *provided*, that all contracts let by the Board of Supervisors shall by them be accepted.

SEC. 15. The Board of Supervisors, on presentation of a petition, signed by ten or more persons, residents of the county, and paying road taxes therein, praying for a public road to be laid out or changed within the county, or a petition signed by one or more persons, praying for a private road or lane to be laid out from the ranch or dwelling of any person to the public road, and designating the location of the road to be established as prayed for, shall cause notice to be given by posting notices for at least twenty days in three of the most public places in the township where the road is situated, describing the proposed location or change, and stating the time when they will act upon the subject of the petition; and if they consider a road necessary they shall appoint three Viewers, the County Surveyor to act as one, who shall view out and locate said road and appraise all legitimate damages arising from such location or change, and upon the return of the certificate of the Viewers, together with the location, if satisfied with the same, they shall cause the location to be recorded in the County Recorder's office, and declare the same to be a public highway, and cause a notice of their action to be served upon the Road Overseer of the district in which said road is located. They shall also order the payment for damages allowed to be paid out of any money not otherwise appropriated, in the county treasury, belonging to the township in which the road is located; *provided*, that all damages and expense accruing from the location of any private road or lane shall be paid by the party or parties petitioning

for said road; and the Board of Supervisors may, before acting upon any petition for such private road or lane, require such a bond from the party or parties so petitioning, as shall in their judgment seem proper, to be held as security for all damages or expense accruing from the location of said road, liabilities upon said bonds to be collected as is provided by law in similar cases. The Viewers shall receive for their services two dollars per day for each and every day actually employed, and twenty cents per mile necessarily traveled in going to and returning from the place where the contemplated road is situated, to be paid by the party or parties praying for such road, if the same shall not be granted; but if granted, then the fees of the Viewers shall become a charge upon the road fund of the township in which the road prayed for is situated, except in cases of private roads, in which cases all costs and expense accruing shall be paid as hereinbefore specified.

SEC. 16. The Board of Supervisors shall have power to levy a property tax, which shall not exceed ten cents on each one hundred dollars of real and personal property in the county, for road purposes, to be levied and collected at the same time and in the same manner as other property taxes are levied and collected, and the property tax, thus levied and collected, shall be paid into the county treasury for the benefit of the public roads lying in the township from which the same was collected, and the sum thus collected shall be divided among the several road districts of the township, and expended in the improvement of the roads in said district by the Road Overseers, under the direction of the Board of Supervisors.

SEC. 17. Each Road Overseer shall keep a correct account of all moneys collected by him in his district for road purposes, together with the names of persons who pay in cash, the amount paid by each, the name of those who perform labor, the number of days' work performed by each, and the names of all delinquents. At each half yearly meeting of the Board of Supervisors, each Road Overseer shall render his half yearly account to said board, verified before some officer having power to administer oaths, in which he shall exhibit the whole amount collected during each preceding half year, the date when, and from whom received, the amount expended by him, to whom and for what purpose paid, the number of days he has been actually employed upon the roads in his district, with the names of the persons employed, distinguishing between those working under pay and those performing labor, as required by section nine of this act, the whole number of

receipts delivered, distinguishing between those given for labor and those given for money, and the names of all delinquents. He shall also furnish a schedule of all property belonging to his road district. Upon receiving such reports, the Board of Supervisors shall make a final settlement with the Road Overseers, and shall allow them each for their services for each day actually and necessarily employed by them upon the roads in their respective districts, the sum of three dollars per day, and the additional sum of twenty-five cents on each road tax collected in cash; *provided*, that the time occupied in collecting said road tax shall not, in any manner, be construed as time spent in actual and necessary work on the roads.

SEC. 18. Each Road Overseer shall be the custodian of all public property belonging to his district, and shall be held responsible for its loss. He shall deliver the same to his successor in office, on demand, and take a receipt of him for the same, specifying each article.

SEC. 19. Any person who shall obstruct any public highway, or any street or lane, by felling any tree across the same, or by placing any other obstruction therein, or by excavating or flooding or digging therein, or shall destroy any ford or crossing of any creek, gulch, river, or stream, of any character, by digging away the banks, or by damming, deepening or widening the same, or by filling up, or in any manner injuring or destroying any gutter or sewer constructed for the purpose of carrying away water from any road, shall be liable to a prosecution before any Justice of the Peace of the township, by any Road Overseer or citizen of the road district in which the offense is committed, and upon conviction, shall pay a fine of not less than twenty nor more than fifty dollars, and shall forfeit five dollars for every day he shall suffer such obstructions to remain, after he or they shall have been ordered to remove the same, by the Overseer or Justice of the Peace before whom he or they shall have been prosecuted; *provided*, that if any person or persons shall wish to dig or construct any ditch across any public highway, street or lane, for the purpose of conveying water for mining, mechanical, agricultural, or other necessary or useful purpose, they shall be permitted to dig or construct such ditch; in which case the owner or owners of such ditch, shall construct or cause to be constructed, and keep in repair at their own expense, good and substantial bridges or crossings over such ditch. If the owner or owners of any such ditch or ditches shall fail or neglect to construct such bridges or crossings, and keep the same in repair, he or



they shall be liable to prosecution and fine, as hereinbefore provided in this section.

SEC. 20. If any person shall willfully destroy or injure any bridge, plank road or causeway, or remove, or cause to be removed, any plank or timber therefrom, or cut down or injure any tree, planted or growing as a shade tree in any highway, street or lane, or damage any such highway, street or lane by digging in it, he shall be liable to be prosecuted before any Justice of the Peace of the township by the Road Overseer, or any citizen, of the district in which the offense is committed, and on conviction shall be fined in any sum not less than five nor more than one hundred dollars.

SEC. 21. All actions commenced under the provisions of this act shall be in the name of the Territory of Arizona, and no officer or resident otherwise competent shall be deemed incompetent to act as such officer, or as a juror or witness in such case, because of any interest he may have in the event of such suit by reason of his being a resident of such township merely.

SEC. 22. All fines collected under the provisions of this act shall be paid into the county treasury, for the benefit of the road district in which the same was collected.

SEC. 23. Any Road Overseer who shall fail to remove, or cause to be removed, any obstructions in the roads of their respective districts, within a reasonable time after being notified that such obstruction exists, shall be liable, upon conviction before any Justice of the Peace, at the suit of any citizen, to be fined in any sum not exceeding fifty dollars and costs, and shall forfeit and pay the sum of five dollars for each and every day thereafter in which he shall suffer said obstructions to remain, to be recovered in like manner, at the suit of any citizen. He shall also be liable on his bond for all damages resulting from such obstructions.

SEC. 24. All acts and parts of acts which conflict with the provisions of this act are hereby repealed.

SEC. 25. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

To amend section six of an act entitled, amendatory of chapter thirty-one and thirty-two, Howell Code, "Of Marriages; of the Rights of Married Women;" "Of Divorces," and repealing chapter twenty-seven "Of Estates of Dower," approved December 30th, 1865.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. Section six of said act is hereby amended so as to read as follows:

§ 6. The Governor of the Territory, every Judge and Justice of the Peace, and every Clergyman of any denomination, or licensed preacher of the Gospel, may perform the ceremony of marriage in this Territory.

SEC. 2. This act to take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

## AN ACT

To provide for the Civil Expenses of the Territorial Government.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That the following sums be and they are hereby appropriated for the objects hereinafter expressed, viz.:

For the salaries of the Territorial Treasurer, Territorial Auditor and Attorney-General, to be paid, as provided by law, the sum of three thousand four hundred dollars (\$3,400).

For Territorial library, for paying freight, postage and extra shelving, seven hundred dollars, to be expended for the year A. D. 1871, and five hundred dollars, to be expended during

the year A. D. 1872, under the direction of the Territorial Librarian, the sum of one thousand and two hundred dollars (\$1,200).

For the distribution of public documents, proclamations of the Governor, the laws and journals of the Legislative Assembly, and to be expended under the direction of the Secretary, in such sums as from time to time may be required, the sum of one hundred dollars (\$100).

For office rent for weights and measures, care and keeping of the same, and for sealing a set of weights and measures for each county in the Territory, and to be expended under the direction of the Territorial Treasurer, and to be paid quarterly, in equal proportions, as hereinafter provided for in this act, the sum of five hundred dollars (\$500).

For printing official documents and other necessary printing, and to be expended under the direction of the Territorial Auditor, and in equal proportions, for the years A. D. 1871 and 1872, the sum of three hundred dollars (\$300).

For the expenses of the Supreme Court, to be expended equally, for the years A. D. 1871 and 1872, under the direction of the Chief Justice of the Territory, the sum of five hundred dollars (\$500).

For rent of library room, and to be expended in equal proportions, for the years A. D. 1871 and 1872, as provided for by law, the sum of three hundred dollars (\$300).

For John Wasson, for printing the Governor's message, the sum of two hundred dollars, and the Territorial Auditor is hereby directed to draw his warrant for the same (\$200).

For the distribution of the Territorial arms and paying the Adjutant-General, a part of which is to be applied to the expenses heretofore incurred, and the remainder to be expended under the direction of the Adjutant-General, and to be paid quarterly, in equal proportions, for the years A. D. 1871 and 1872, the sum of one thousand dollars (\$1,000).

For paying extra clerk hire for the Legislative Assembly at the present session, to be audited on the certificate of the Speaker of the House of Representatives or the President of the Council, certifying that such services were rendered, and that such persons are entitled to receive such pay and allowance for such services, the sum of two hundred dollars is hereby appropriated (\$200).

For the contingent expenses of the Territorial government for the years A. D. 1871 and 1872, the sum of two thousand dollars, to be expended by the Governor as rewards for the apprehension of criminals, and for the payment of agents employed between the Territory and foreign States, and other expenses incidental thereto (\$2,000).

SEC. 2. The salaries aforesaid, and the other appropriations, shall be paid out of the general fund, and shall apply from the first day of January A. D. 1871, and end on the thirty-first day of December A. D. 1872. The Territorial Auditor shall not draw his warrant for any civil expenses other than those specified in this act; *provided*, that this section shall not apply to an act regulating and providing for the payment of the necessary expenses for the keeping of Territorial prisoners.

SEC. 3. That the Territorial Auditor shall draw his warrant for the aforesaid salaries quarterly, and for the amounts due for said quarter, and for all other appropriations as far as may be practicable.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

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## AN ACT

Amendatory of chapter forty-nine, Howell Code, "Of License Tax."

*Be it enacted by the Legislative Assembly of the Territory of Arizona :*

SECTION 1. That section two of chapter forty-nine be amended so as to read as follows :

§ 2. Every person who shall sell or vend any wines or distilled liquors, butchers' meat, drugs and medicines, and who shall keep horses or carriages for rent or hire, when their business or sales amount to more than an average of five thousand dollars per quarter, shall pay a quarterly license tax of twenty dollars; when such business or sales are less than five thousand dollars per quarter a quarterly license tax of eight dollars. Each pawnbroker shall pay a quarterly license tax of twenty-five dollars.

SEC. 2. That section seven of chapter forty-nine be amended so as to read as follows :

§ 7. Each proprietor or keeper of a billiard table, not kept

exclusively for the use of the owner and his family, for each table ten dollars per quarter; for a nine or ten-pin or bowling alley fifteen dollars per quarter.

SEC. 3. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

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## AN ACT

Fixing the commencement, terms, time and expiration of certain Territorial and County Officers.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. The term of all officers elected or appointed in this Territory shall expire on the 31st day of December, A. D. 1872, and every two years thereafter; and all officers elected or appointed for a full term shall commence their term of office on the 1st day of January next, after the term of their predecessors shall have expired. And all officers elected or appointed to fill any vacancy shall hold such office only until the expiration of the regular term which the person whose vacancy is so filled would have held the same.

SEC. 2. All officers elected or appointed (except members of the Legislature) for a full term, shall take and file the oath of office and give the bonds required by law before entering on the duties of their office, and may take such oath and give such bonds at any time within twenty days before the commencement of their term of office respectively; all persons appointed to fill a vacancy shall take such oath and give such bonds within ten days after receiving notice of their appointment.

SEC. 3. The term of the office of Territorial Treasurer, Auditor and Attorney-General shall expire on the 31st day of

December, A. D. 1872, and every two years thereafter, unless sooner removed from such offices as prescribed by law.

SEC. 4. And all officers, either elected or appointed, shall hold their respective offices until their successors are elected and qualified.

SEC. 5. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.

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## AN ACT

To provide for the Revision and Printing of the Laws.

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. Coles Bashford, Secretary of the Territory of Arizona, is hereby authorized to compile all the laws of said Territory, and publish the same in one volume, to be known as the compiled laws of said Territory. To make an index to the same, and superintend the publication of said compiled laws.

SEC. 2. That the price of such publication, including composition, press-work and binding, shall not exceed the price fixed by the Comptroller of the Treasury Department, in his instructions to said Secretary, for like work, that would be paid by the government of the United States, dated April 23d, 1869, on file in the office of said Secretary. And said Secretary shall procure the publication of five hundred volumes of said laws, at the lowest cash prices in the city of New York for such work.

SEC. 3. That there is hereby appropriated, out of any money in the Territorial treasury not otherwise appropriated, to pay for said five hundred copies of said laws, the sum of thirty-five

hundred dollars, said money to be drawn from the Territorial treasury, as follows :

Whenever the said Coles Bashford, Secretary, as aforesaid, shall certify to the Territorial Auditor that said laws have been published, and are ready to be shipped to said Territory, together with the cost of such publication, the Territorial Auditor shall audit said account, and draw his warrant for the amount thereof upon the Territorial Treasurer; *provided*, that the sum so audited, as aforesaid, shall not exceed the said sum of thirty-five hundred dollars.

SEC. 4. That said Coles Bashford, Secretary, as aforesaid, shall receive for his services the sum of one thousand dollars, which shall be audited by said Territorial Auditor after the rendition of such services, and said Auditor shall draw his warrant upon the Territorial Treasurer for the same, and which shall be paid out of any money in the said treasury not otherwise appropriated.

SEC. 5. This act shall take effect and be in force from and after its passage.

APPROVED February 18th, 1871.





# RESOLUTIONS.



# RESOLUTIONS.

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## JOINT RESOLUTION

### Concerning the distribution of Territorial Arms.

*Whereas*, the Governor of the Territory received from the government of the United States, in the year 1869, two hundred and twenty-four remodeled Springfield muskets, with twenty-two thousand four hundred rounds of ammunition, and, in the year 1870, one hundred and twenty-five Sharp's improved carabines, and one hundred and twenty-five Spencer carabines, with twenty-five thousand rounds of ammunition; and whereas, on the receipt of said arms, many of our citizens were unarmed, which caused a necessity for the immediate distribution of said arms, and his Excellency the Governor having made such distribution, under regulations established by him: Therefore be it

*Resolved, by the Legislative Assembly of the Territory of Arizona*, That the distribution aforesaid of said arms and ammunition, in manner aforesaid, by his Excellency the Governor, be and the same is hereby confirmed, and made valid and legal in all respects.

APPROVED February 14th, 1871.

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## JOINT RESOLUTION

Authorizing the Secretary of the Territory to collect and adjust certain claims against the United States and in favor of Arizona Territory.

*Be it resolved by the Legislative Assembly of the Territory of Arizona:*

That, whereas the Territory of Arizona has assumed and paid the following sums of money for expenses incurred during the year 1864, to wit:

To William T. Howell, for preparing a Code of laws for the Territory.....	\$2,500 00
To E. A. Bentley, for printing said Code.....	2,994 75
To William T. Howell, for reading proof of said Code .....	250 00
To T. A. Hand, for printing Governor's message, journals, rules, etc., of the first Legislature.....	1,121 00
To E. A. Bentley, for printing Code and Acts of the Territory in the Arizona Miner newspaper,	1,747 00
To R. C. McCormick, for amount paid for enrolling bills passed by the first Legislature.....	850 62
To R. C. McCormick, for amount paid P. H. Dunne for composition, press-work, paper and binding Governor's message (1864) and compendium of laws of the first Legislative Assembly in Spanish,	950 00
Making a total of .....	<u>\$10,413 37</u>

And whereas the Congress of the United States, by section nine of chapter twenty-eight, approved April 7th, 1866, have made an appropriation which was intended for the benefit of said Territory, and the payment of said claims, the items of which are herein set forth, provide as follows:

That, in addition to the appropriation hereinbefore made for the Territory of Arizona, the following sums are hereby appropriated, viz.:

For compensation and mileage of the members of the Legislative Assembly, officers and clerks, and contingent expenses, five thousand dollars.

For preparation and binding laws of the Territory, five thousand dollars.

Now, therefore, the Secretary of the Territory of Arizona is hereby authorized and empowered to adjust said claim with the Secretary of the Treasury of the United States; to procure whatever vouchers may be necessary for that purpose; to receipt to said Secretary of the Treasury for all claims that may be allowed said Territory as aforesaid; and that all sums of money that shall be allowed said Territory as aforesaid, shall be placed to the credit of the Territorial Treasurer of said Territory, and subject to his order.

APPROVED February 13th, 1871.

## JOINT RESOLUTION

Of instruction to the Honorable Richard C. McCormick, concerning a semi-weekly mail on the route from San Bernardino, California, to Prescott, Arizona Territory.

*Be it resolved by the Legislative Assembly of the Territory of Arizona:*

That the Honorable Richard C. McCormick, our Delegate to the Congress of the United States, be instructed, and is requested, to use every effort in his power to procure an increase of mail service on said route, from once a week to semi-weekly, and by the way of Ehrenburg and Wickenburg to Prescott.

That a copy of these instructions be forwarded immediately to the Honorable Richard C. McCormick by the Secretary of the Territory.

APPROVED February 14th, 1871.

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## JOINT RESOLUTION

Appropriating sixty dollars to pay John H. Purcell for making copies of H. B. No. 51, "An Act to provide Revenue for the Territory and several counties thereof."

*Be it enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That the sum of sixty dollars is hereby appropriated to pay John H. Purcell for making, by direction of the House, copies of H. B. No. 51, "An Act to provide Revenue for the Territory and several counties thereof."

SEC. 2. The Territorial Auditor is hereby authorized and directed to draw his warrant in favor of John H. Purcell for the said sum of sixty dollars.

SEC: 3. The Territorial Treasurer is hereby authorized and directed to pay the warrant mentioned in the preceding section, out of any moneys in his hands belonging to the Territory not otherwise appropriated.

APPROVED February 18th, 1871.

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## JOINT RESOLUTION

Asking the Secretary of the Interior to commence the building of the Territorial Prison.

*Whereas*, by an act of Congress entitled an act setting aside certain proceeds from internal revenue, for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona and Dakota, approved January twenty-second, one thousand eight hundred and sixty-seven, the net proceeds of the internal revenue of said Territories for the fiscal years severally ending on the thirtieth day of June, one thousand eight hundred and sixty-six, the thirtieth day of June, one thousand eight hundred and sixty-seven, and the thirtieth day of June, one thousand eight hundred and sixty-eight, were set aside and appropriated for the purpose of erecting, under the direction of the Secretary of the Interior, penitentiary buildings in said several Territories, at such places therein as have been, or may be, designated by the Legislatures thereof, and approved by the Secretary of the Interior.

*And whereas*, The Legislature of the Territory of Arizona, by an act entitled "An act to permanently locate the Territorial Prison for the Territory of Arizona," approved December seventh, one thousand eight hundred and sixty-eight, did designate the place where the said prison should be built, and did locate said prison at or near the town of Phoenix, in Yavapai county, in said Territory.

*And whereas*, many prisoners who have been sentenced to terms in the Territorial prison are now in confinement in the several county jails in the Territory, and are there maintained and kept at great expense to the Territory, not only for food and clothing, but for guarding them in said county jails.

*And whereas*, By the expenditure of the moneys collected as internal revenue in this Territory during the before mentioned fiscal years, and remaining in the treasury of the United States as net proceeds thereof, and appropriated by the Congress of the United States as aforesaid, a portion of said Territorial prison might be built, so as to more securely and cheaply keep the prisoners sentenced to confinement therein, while the said prisoners might be made by their labor to materially aid in the completion of said prison ; now therefore be it

*Resolved*, By the Legislative Assembly of the Territory of Arizona, that the Secretary of the Interior be and he is hereby requested to approve of the place designated by the Legislature of this Territory for the Territorial prison, to wit: at or near the town of Phoenix aforesaid, and that he be further requested to direct the expenditure of the money aforesaid, and the commencement of the building of said prison, as early as practicable and upon such a plan as shall allow the employment of convict labor in its construction.

That the Secretary of the Territory be and he hereby is directed to transmit a copy of these resolutions to the Secretary of the Interior and another to the Delegate in Congress from this Territory.

APPROVED February 16th, 1871.





# MEMORIALS.



# MEMORIALS.

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## MEMORIAL

Asking the Congress of the United States to allow the claim of M. B. Duffield, late United States Marshal for the Territory of Arizona.

*To the Senate and House of Representatives of the United States in Congress Assembled:*

Your memorialists, the Legislative Assembly of the Territory of Arizona, respectfully represent that they have examined into the facts and merits pertaining to the claim of M. B. Duffield, and find that the said M. B. Duffield, well and faithfully discharged the duties of United States Marshal for the Territory of Arizona, for three years, ending in April, 1866, for which services he only received the sum of six hundred and eighty dollars (\$680), and that his claim for such services and expenses incurred in the discharge of his official duties are just and correct, and your memorialists ask that said M. B. Duffield be allowed and paid his claims for such services and expenses as now appear on file in Washington.

*Resolved*, That the Secretary of the Territory be, and is hereby, requested to forward a certified copy of this memorial, to the Congress of the United States.

APPROVED February 18th, 1871.

## MEMORIAL

## Asking protection from Hostile Indians.

*To the Senate and House of Representatives of the United States in Congress Assembled:*

Your memorialists, of the Legislative Assembly of the Territory of Arizona, most respectfully submit to your honorable bodies the following memorial for the purpose of giving reliable information of the condition and necessities of the people of this Territory.

Your memorialists are aware that occupying a geographical position on the south-western border of the United States, with no railroad or telegraph facilities, and limited political influence, the suffering and death which have attended the settlement of this Territory in consequence of the hostility of the Apache Indians, are but little known or appreciated beyond our borders. Your memorialists have therefore compiled testimony by a large number of reliable citizens and officers of the army, with the view of fairly and more forcibly making known the condition of affairs in this Territory. Which shows that a savage war still exists herein, causing the murder of hundreds of our citizens, and the loss of a vast amount of property, and that at no period since the settlement of the Territory, has the loss of life and property been greater than during the year 1870, and that the hostility of the Apache Indians and want of protection have led to the abandonment of many valuable mines, and that large farming settlements have been, and are being, abandoned for like causes.

Your memorialists would further state that the people of this Territory are attached to it, and find in its genial climate, pastoral, agricultural and mineral resources, all the elements necessary to make it a populous and desirable country in which to live, that they have endured the hardships and braved the dangers incident to a pioneer life, with a fortitude that should command the admiration of a brave people, and although hundreds have fallen beneath the scalping knife and tomahawk, or suffered torture at the burning stake, the survivors fill the broken ranks and continue the contest. Our people have made their homes here and have no other, but unless protection be given them, the constant decimation that is made will soon sweep from the country all traces of civilization, except deserted fields and broken walls.

Your memorialists respectfully ask a careful consideration of the facts presented, and as faithful citizens of the United

States and your own kindred, and in the name of humanity we ask for protection and assistance.

*Therefore be it resolved* by the Council and House of Representatives of the Territory of Arizona; that our Delegate in Congress be and he is hereby requested to use all honorable means to bring this subject to the earnest and favorable consideration of Congress; *and be it further resolved*; that the Secretary of the Territory be requested to transmit a copy of the foregoing memorial and resolutions to our Delegate in Congress.

APPROVED February 18th, 1871.

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## MEMORIAL

Asking modification of the Excise Laws.

*To the Senate and House of Representatives of the United States of America in Congress Assembled:*

Your memorialists, the Legislative Assembly of the Territory of Arizona, respectfully request, that the interests of this Territory would be greatly advanced by repealing so much of the excise laws as to allow the distillation of "mescal" from the maguay plant free from duty.

Your memorialists represent, that the maguay plant is grown in no other part of the United States possessions, save this Territory, and that when the manufacture of "mescal" was prosecuted, it gave great additional security from hostile Indians, the principal places of manufacture being on their path to and from Sonora.

Your memorialists further represent that the repealing of so much of said excise law will work no hardship upon any other class of distilleries, and that no "bread material" is used in manufacturing said mescal, and that said manufacture can be prosecuted only where the maguay plant is grown, and that the plant grows nowhere else except in this Territory.

Your memorialists would therefore respectfully request, that your honorable bodies grant this request:

*Resolved*, That our Delegate in Congress is hereby requested to use all honorable means to secure the passage of such repealing acts; that the Governor of this Territory be requested to transmit a copy of this memorial to our Delegate in Congress, Honorable Richard C. McCormick.

APPROVED February 18th, 1871.











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